
Whitehal,

THis Second Part of Doctor *William Howel's* Institution of General History, or History of the World, beginning from the Monarchy of *Constantine* the Great, and continued to the taking of *Rome* by *Odoacer* King of the *Heruli* and the Destruction of the Empire of the *West*:

Is Licenced to be Printed by the Consent and Direction of the Right Honourable *Henry Coventry* Esquire, His MAJESTIE'S Principal Secretary of State.

Jo. Cook.

AN
INSTITUTION
OF
General History,
OR THE
HISTORY
OF THE
WORLD.

The second Part.

CONTAINING

That of the *Roman* Empire, its flourishing Condition, its Middle or Neutral State, and its Ruine and Downfal in the West.

FROM

The Monarchy of *Constantine* the Great to the taking of *Rome* by *Odoacer* King of the *Heruli*, and the Erecting of a Kingdom of *Barbarians* in *Italy*.

WITH

An Account of the Polity of the Empire, and of the several Laws of Moment made, during the Reigns of the Emperors, both in East and West to this Period.

By **WILLIAM HOWEL, LL. D.** sometimes Fellow of *Magdalen* College in *Cambridge*.

L O N D O N,

Printed for *Thomas Bassett*, at the *George* in *Fleetstreet*; *William Crook*, at the *Green Dragon* without *Temple-Bar*, and *William Cademan* at the *Pope's Head* in the *New Exchange*. 1680.

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TO THE KING.

May it Please Your Majesty,

I Here most humbly Present to Your Majesties Patronage a Second Volume, or Continuation, of that History which Your Majesty was Pleas'd formerly to Accept, and to Incon-
rage. The Extent of it is not so large as that of the former, as to Time; but it is rather Superior to it, in respect of the Mat-
ter which it handles. Here is presented to View, the greatest Empire, or the Roman, in its full Latitude and Proportion; as to its Polity, and manner of Government, both Military and Civil. And here is Vindicated one of the greatest Monarchs
is ever produced, Consider him in all Circumstances; so much Your Majesties Predecessor, that in this Your Kingdom he had his Original, not only of Empire, but Life also, as is most Probable, and was the first Defender of the Faith; the true Reason of all the Calumnies raised against him. This Vo-
lume also Contains that great Revolution of the Ruine of the Roman Empire in the West; by what means and me-
thods it was accomplished. All which the Author lays at Your Majesties Feet, being

Your Majesties

most Loyal Subject

WILLIAM HOWEL.

PREFACE.

THE Author having already given an Account of the Occasion of his Undertaking this Work, as also of the Usefulness of the Subject; yet finds himself obliged here to have something said which may contribute to the Reader's benefit in the Perusal of this Second Volume, and that Reader who is utterly unacquainted with the State and Condition of the Times on which it insists.

Such an one having Perused the First Part of this Work, and considered the Method of its Books and Chapters, the Disposition thereof, the Synchronisms and Conjunction of the Empires and Contemporaries, will be prompted thence to look for the same in this, and, perhaps, tax the Author for want of Skill or Diligence; when the want is only in his own Head, of due Knowledge and Consideration.

For upon search, he will discover the then known World, possessed and governed in a manner by one Empire; and such Kingdoms as were at the same time in Being, to have had little observable, and upon Record, but in relation to this Empire, as engaged in War or otherwise concerned, with it. From the Monarchy of *Augustus*, till the Taking of *Rome* by the *Heruli*, and the Dissolution of the Empire in the West, there are otherwise no Contemporaries considerable. Perhaps the Names and Succession of some *Persian*, or of other barbarous Princes may be found, mentioned by the way, of which it would be imprudent separately to Treat, till these Northern barbarous Nations be found fixed and grown to some considerableness, by their Establishing of Kingdoms in the *Roman* Soil. Then the Reader will have them (being the Beginnings of these Modern Powers he sees in Christendom and elsewhere) described as to their Original, Progress and Polity, in the same Method as he beholds the first Volume; as Contemporary with the *Roman* Empire still subsisting, though under a new and second Head, in the East.

Farther, the Author upon some Intelligence of late received, doth fancy he sees such a Reader, taking his Prospect of this Book from the last Page thereof, instead of that of the Title, and turning to the End instead of looking at the Beginning, with a Question, *How far doth it come?* and possibly concluding his Survey with this Expression of Disappointment, *What no further?* And his haste to make the Discovery, he imagines, may be so great, as not to consult this Preface in his way, and thence to take his Measures, whereby his Questions and Wonder might be prevented.

But the Author thinks it the best sort of Remedy in this case, to drive out a lesser Wonder by a greater, by telling him, That he is very sorry for his Mistakes; but exceeding sorry that this Second, and the other Volumes now in a manner ready to come forth, reach so late as they do. His Reasons are, because the Civil State of these Times,

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whereof now he writes, is exceeding Dark. That in the next place, few have undertaken to make them lighter with any great Success. And yet they are such as afforded rather more Copious Matter for Histories, than any other before or since. Never so spacious and Potent an Empire as that of the *Romans*. Never such Revolutions as in the Cantonizing of this Empire into particular Barbarous Kingdoms; in the Motions of the *Goths* and *Vandals*, and other Northern Nations, and their various Attempts often frustrated, and at last prevailing. What Battels! What Stratagems in War! What Consultations! What Policies did they procure! How would our Annals have swelled with such Passages, had the Particulars happened in our days?

How great a Pleasure would it have been to any that desire to understand the state of former Ages, and the Original of their own Nation, to have had discovered how by degrees the poor *Britans* were Conquered by the *English Saxons*, and others, Invaders of this Island? Numerous must have been the Battels, and various the Arts or Acts which must have rooted them out, and driven them out of these Parts, into the Mountainous Coasts, or beyond the Seas. How delightful would it have been to know the Distribution of the Conquered Countries, the planting of Colonies, the modelling of these petty Kingdoms, the Destruction of the ancient Cities and Towns where such quantities of *Roman* Coins are now digged up, the Building of new, and the way of Governing all?

The Author professeth he cannot travel the Countrey about *Salisbury* or other Plains, where those *Tumuli* are presented to his View (by which he imagines a Battel may be traced, and the Places and Greatness of slaughter discovered, though they be but blind Monuments of the Slain) but he must needs sigh, and apply *Horace* his *Vixere sorites ante Agamemnona*, &c. to this and other unhappy Occasions.

Reader, thou canst afford, That the History of a few years of Modern Passages, (perhaps a Civil War) make up an entire Volume, and not grudge that the Writers dwell upon such things as have in some reasonable manner been handled also by others; and is thy Curiosity so small, as to be content with some Scraps of former Ages, not Barren of great and glorious Things, but rather Barren of such Writers as were able to transmit them to Posterity? Wouldst thou be content, as to them, with a few Names? a few insignificant Hints? Desirest thou a rough Draught, or rather preferrest some touches, before a Picture? Do'st thou covet a Rhapsodie? and art thou in Love with Meagerness and Skeletons? Consider what thou wouldst have: This second Volume, perhaps, drawn down to the Conquest, or thou cared'st not if even to our present Times. Thou knowest not, then, what numerous Kingdoms, States, and Principalities are contained in these Centuries. Alas! thou wouldst be little or nothing bettered in the Knowledge of Times, of Successions, of Myseries of War and Peace. Such a Book would scarcely exceed the worth of the Since's of a Two penny Almanack; perhaps more right in its Chronology, but little more considerable for its Materials.

But to give thee some Satisfaction in the room of the pleasing variety of Contemporaries, which here are not to be had; and to quiet thine Imagination,

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Imagination, the Author hath done his Indevour to present thee as it were with a Prospect of a new World. Other sorts of Persons, Magistrates, Offices and Employments, thou wilt possibly here meet with than thou takest notice of in *Livy*, *Florus*, *Suetonius*, or *Tacitus*. The Author finding thee a Stranger, hath resolved to take such pains, as a good Governor or Guide, who hath Interest and Acquaintance, is wont to do with young Travellers. He will carry thee to Court, and there shew thee the Greatest Monarch in the World, his Person, Power, State, and Magnificence. He will labour to acquaint thee with all his Ministers, and let thee know the Nature and Extent of their Authority and Jurisdictions; lead thee into all their Offices, and shew thee the manner of their Proceeding, and expediting their Business; how they, and those under them, were chosen and admitted to, and how dejected of their Employments. From the Court, he will Conduct thee into the Country, and there make known to thee, the Government of the Provinces, how subordinate, with the manner and limitations of their Administration. He would be sorry to leave thee unacquainted with the Cities and Corporations, their Courts, their Chief Magistrates, and Inferior Officers, and that in the Execution of their Powers. He is Ambitious also to instruct thee in the Discipline of the Camp, the Power, Variety, and Subordination of Commanders; in Sum to give thee a full View of the whole Polity, both *Military* and *Civil*. This he hath proposed to himself, being of Opinion, That an Historian's Task, as to Times past, is much the same with that of a faithful and able Governor of Travellers, as to the present.

Not only to show thee a pleasant City or Country, to give thee opportunity of knowing some Stratagems of a Battel, and the manner of Besieging a Town; but also as much apprehension, as can be with Convenience, of the Customs and Laws of the Country; such Laws as respect the *Jus Publicum*, the Polity, state and manner of Government, not so much the *Jus Privatum*, or that betwixt man and man concerning Contracts, Actions, and manners of Proceedings in Courts, for that would be to suppose thee rather a Native of the Country, where such Laws are in force, not a Stranger; and for him to write a Book of Law, and not of History.

It is to be acknowledged, That he hath not many to imitate in this kind, and that most Writers have been so strait laced, as if a principal Law of an History were to have no Laws mentioned in it. But consider whether Profit or Pleasure be the chief end of History; if Profit, whether it consist in understanding things of lesser or greatest Consequence and Use for Humane life. Certainly those of greatest Consequence are those which relate to the Publick, which are in the hands and management of Princes, Magistrates, and publick Persons. If Histories be useful, because they set before us good Patterns and Examples, and shew us what Errors and Mistakes have been committed, and how to prevent or redress them, certainly this is most desirable as to the grand Interest of a State or Government itself. Now this Law History doth perform above all others. Fundamental Laws shew the Wisdom of first Settlements, and other Laws occasionally made, direct how to supply such Defects, and Cure such Distempers as, through the

Vixere sorites ante Agamemnona
Medit. sed om-
nis illacryma-
bile auger-
tar, ignem
longa Noctis,
coram gule
vultu facta.
Carm. lib. 4.
od. 9.

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the naughtiness and frailty of Men, and the vicissitude of Times and Affairs are incident to all Governments. And as Law-History acquaints us with things of most Publick and general concernment; so of all others it is most certain, and less liable to Mistakes. By the Medicine, we may well judg of the Disease; the Legislative Authority being presumed to understand more than a private Man, concerning the Constitution and Crasis of a State; as, in a Disease, the Skill of a practised Physician exceeds that of a Person whose breeding hath not fitted him for such Observations.

And however the Practice of Law-History hath been generally omitted, and those of a War, or more ordinary things been followed; yet some Writers have been so far convinced of the Usefulness of it, as, less or more, they have made relation of such Laws as have been Enacted in the Times whereof they wrote.

For, the most ancient Writings now extant in the World, and which bear the stamp of Divine Authority, are of this Nature; even the *Pentateuch of Moses*, which is purely *Historical*, and in way of *History* delivers the Laws and Constitutions made by God himself; who was Legislator and King of the *Jewish* Nation in its first Establishment.

As *Moses* was learned in all the Learning of the *Egyptians*, and mighty in Words and in Deeds; so are his Histories of such a Composure as none in the following Ages could imitate. Great things performed in the Heathen world were Sung by *Bards* and *Poets*, the Design of whom being, by relation of such Actions, to excite their youth to imitation, they added Fictions to them; such Lineaments and Colours they gave to their Pictures, as might represent them most lively: and by contrary Representations, they put more Deformity upon such Persons and Passages as they intended to make odious; and so *Fiction* and *History* continued a long time together.

At length they parted though still they shewed some Kindness for each other; and such as berook themselves to the Composing of Histories, made choice of a pleasant way of Writing, pleasant to themselves, and to such as should read, or rather hear them; so as, however their Narrations might be true, yet they produced them in such a dress, and so ordered them, as to gain Applause from popular Assemblies; as at the *Olympick Games*, and other solemn Meetings. They left out such things as would trouble both themselves and others to understand. The Story of a War; a Battel; perhaps, of a Truce or League, would take; tickling their Fancies by variety of Stratagems, Devices, and particular Accidents. Whereas the Reason and Severity of Laws, would make the Auditors gaze, and shrug their Shoulders, neither caring to reach the one, nor loving to meditate on the other. But such was the Custom, at the *Olympicks*, not only to have exhibited Labours and Dexterities of the Body, but also of the Brain; as appears by what is related concerning *Herodotus* his History there recited, and the Emulation of *Thucydides* thence contracted, not to mention *Dionysius* his sending his bald Poems there to receive approbation. And that it continued to be the Custom in other Assemblies, even to the time of *Ammianus Marcellinus*, the Reader will perceive by what he finds in this Volume concerning the Person and History of that Writer.

Sometimes

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Sometimes yet, as was said, they would mention Customs and Uses, and now and then a Law; in short and by the way, as is the practice of *Herodotus*, *Diodorus Siculus*, and others concerning the *Chaldeans*, *Egyptians*, and other Nations; but this was towards Strangers; a Custom observed generally by Historians, to relate the Policy, Government, and some Laws of Foreigners, but scarcely those of their own Countries except *Plutarch*, as a *Grecian*, may be said to have done it in the Lives of *Solon* and *Lycurgus*. The reason was, they wrote not so much to benefit Posterity, as to gratifie the Age in which they lived; to which they thought it would be nothing pleasing to read such things as they already knew.

Therefore are we more beholding to *Dionysius Halicarnassensis*, *Plutarch*, *Dion Cassius*, and other *Greeks*, for giving us an account of the Roman Policy, such as it was under the Kings, and the Change made by *Julius Cesar* and *Octavius*; rather than to *Livy*, or other of the Roman Writers. To some it became commendable to write concisely and finely as it was then esteemed, and to make some Flourishes and Descants upon things, rather than penetrate into the depth of Affairs, and explain the Original and Issue of Actions; so as to give light and assistance to Humane life. If this way, even then as well as in later times, gratified not Readers more than Truth it self; *Florus*, or he that wrote that Book, was vilely mistaken, who cared not what he wrote, so it was *Flourish*, as is evident from the gross mistakes he commits, even in most known and famous Passages, of which the Author hath taken notice upon occasion; because his Errors are baited by pleasing Language.

Others were more Grave and Serious; and their Names are never to be mentioned without Honour, for their Skill and Diligence in relating the great Affairs both of Peace and War. But, a very learned Man in the last Age complains, that when they touch at Laws, they do it *tanquam Canes ad Nitum*, as afraid of some Rock, of which they clear themselves as soon as possible; especially such of them as had not been Educated in matters relating to the *Forum*; chusing rather to describe an Army, the form of the Camp, the kind and manner of a Fight, and the number of the Slain, or other matters in a copious and pleasant style, than to shew the occasions and fitness of Laws. But, saith he; shall a certain Speech and Aphorism be mentioned, and a Noble Law relating to Reformation of Manners, Regulation of Officers, or Mode of Government be neglected? Some notable Decision long and often debated, and that publicly, be passed by?

Dionysius and *Livy*, he adds, deliver the History of the change of Government introduced by the *Decemviri*, copiously enough. Being created for the very making of Laws, they tell us, That of Laws they ordained twelve Tables. But what these Laws were, or what was written in these Tables, they tell us not; which, he affirms, they certainly ought to have done. One Law or two, perhaps, they mention; but why not the rest, being of so vast concernment? both as they were the Foundation of the Civil Law, and made so great a change in the Administration of the Commonwealth? Some make mention of the Laws called *Vocantia*, *Falcidia*, *Papia Poppaea*, and others; but they explain not one Sentence of them, he tells us; as they ought,

not

Fr. Baldovino Di Indizione
Historia anti-
versae, de qua
cum Jurispru-
dentia consi-
derant.

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nor recite the words without Mistakes. He proceeds in lamenting, that though *Plutarch* writes the Lives of *Sulla* and *Cæsar*, yet he explaineth not the *Cornelian* nor *Julian* Laws. *Suetonius*, *Lampridius*, *Spartian*, *Capitolinus*, and others undertook the fame for the succeeding Emperors, and they so relate their Acts, Sentences, Apothegms and Practices, as pretending also to recite their Judgments, and Constitutions. But he bewails that their Relations are confused, jejune and mutilated; that what they deliver is lame and mistaken, being unskillfully delivered by those who understood not that whereof they wrote, which is to be amended and supplied out of the very Books of Laws themselves.

But he acknowledgeth that one Person, and he an extraordinary one, there was, who is said to have been exact in the way of writing Histories. This was *Atticus* that dear Friend of *Cicero*, concerning whom *Corn. Nepos* in his Life reports, That being a Lover of Antiquity, he so exactly understood it, that he exposed it all to View, in a Volume he wrote of this Subject, wherein there was no Law, no Peace, no War, nor any other memorable thing of the Roman People, but he took notice of it; being herein, it seems, most Conformable to *Moses*, of all others. And so the lately mentioned Writer affirms, every one ought to do, who pretends to Compose an Exact History, not only to take notice of such Laws as respect the Government and Polity, but even of those also which belong to the *Jus Privatum*, when by reason of the want of knowing them, History it self; That is, saith he, the State and Condition of the Commonwealth at that time, the form of Judgments and Customs cannot be known. This course the Author hath indeavoured to imitate in this Second Volume, so far as was convenient, and to supply in large Additions, what time and his Health would permit, during the Reprinting of the first, which he wrote at such an Age, as the Laws could not be well known unto him, as neither the World so well, as now, though of the World he wrote; but what otherwise might be wanting, he indeavoured to supply with Care and Industry.

As the Method thereof was wholly his own, without the least hint or suggestion from any others, except he could receive any inconsiderable one from reading *St. Augustine De Civitate Dei*, where he joyns together in time the Kingdoms of the ancient *Greeks*, and the state of the *Israelites*; so there are few of the Classical Authors but he diligently read, and as occasion required, abbreviated them so as to serve his purpose. And as he omitted not consulting Modern Writers; the neglect of whom would have argued both great Imprudence and Arrogance; that he may acknowledge from whom he received most assistance; as to pointing to Matter, and Matter it self, he had much help from the Annals of *Bishop Usher*, but especially from the *Chronicon* of *Dr. Simson*, an Excellent Book, though written in that way of Annals. And as to this second Volume for Illustration of the Laws, and often of History, he acknowledgeth the great Information and Assistance he hath had from the Commentaries of *James Gothofred*, an extraordinary Person, for so far as the Code of *Theodosius* doth extend.

And the Author being now in the way of giving every man his due, is joyful of this opportunity long look'd for, to discharge a Debt, wherein the Reader himself is concerned; if he receive any benefit, by

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by the largement and continuation of this Work. This is to the Memory of that truly Honourable and Learned Person *Sir Orlando Bridgman*, late Lord Keeper of the Great Seal of *England*. Of all sorts of Injustice, that of Ingratitude is most black and ugly; being by the *Persians* esteem'd the greatest Crime of all others. Indeed they and all other Nations have accounted *Undutifulness to Parents*, and *Neglect of Masters*, or those that brought us up, who spent much time and pains upon us, and indeavoured to make us both good and knowing, the worst sort of Ingratitude, such being never too much required, in the Opinion of good and generous Persons. Yet though to them we owe our Beings, and what is more, our truly well Beings; yet a third degree of Respect and Acknowledgment is due to those, who by some extraordinary Acts in the Turnes, and Occurrences of our Lives, contribute to the prevention or removal of some notable Impediments to the comfortable enjoyment of them, or else considerably to the addition of our Conveniences. Such Favours he must ever acknowledge to have received from that worthy Person, whose Kindness had that Advantage which gives the greatest Relish to all Acts of Generosity that it was seasonable. So seasonable it was in reference to this Work, that it must have miscarried, had it not had his assisting hand. The Effects of his Kindness were very considerable to the Author; and that they were not more, the fault was in some other Men. May these Papers, if they should have the good Fortune to Survive, continue to be the Monument of *Sir Orlando Bridgman's* Merit, and the Acknowledgment of the Author, who still shall say, as that Noble Emperor *Gratian* wrote, when out of Gratitude to *Aufonius* his School-Master, (after many Acts of Bounty to him) he conferred on him the Consulship, the highest Dignity of which a Subject was capable; *I have Paid what I ought, and I still owe what I have Paid*.

The Author having made his due Acknowledgments, is now much at Ease, notwithstanding the Risque he runs even by his Indeavours to serve the Publick. He is now a little acquainted with the World. He is sensible how an inferior sort of Men, big with Business, endeavour to render as unserviceable those that are given to Books; and would have the Study of good Letters to be Useless. And it is to be expected that in the next *Ragguagli di Parnasso*, we shall hear that *Apollo* hath found a blot in the Eliccheons of *Xenophon*, *Epaminondas*, *Alexander*, *Cæsar*, *Julian*, and other Persons of greatest Eminency in all Ages; for management both of Civil and Martial Affairs, for being Scholars, and very many of them, Writers too.

But besides the Danger he incurs *ipso facto*, by being Bookishly affected, and that as far as Authorism it self, though not given to Play, he has heard of the Game of Hot-cockles, how he lyes down that Writes a Book, and whoever pleases takes the liberty of Striking. He is sensible of the great Disadvantage of Expectation, and that second Attempts often prove unsuccessful, in point of Reputation; not but that the Authors are the same, or more able than before; but the Reader himself is in fault, as well in unadvisedly raising his Expectation, as not at all considering the Subject or Matter handled, but expecting the same Copiousness and Variety in barren, as in fruitful Grounds;

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Grounds, being of the same humour with some strangely conceived People, who being to choose a Chaplain, pick out the most abstruse Text they can find in the whole Bible, the most obscure and least significant place, and expect he should be as ready, discourse as Learnedly, Copiously, and Profitably upon it, as upon any the most Pregnant in Holy Writ. In Conclusion, he is not unacquainted with the Passions of those, who in some Countries have Traded in Books, who overgrown with Wealth, or Angry that they were not employed, imagining they carried the Life and Death of a Book upon the Tip of their Tongue or Pen, have upon asking for a Treatise newly Published, turned the Face aside, look'd Grave, and dropt this Expression, *It doth not answer Expectation*; or such others, as Avarice or Envy have Extorted.

Such Accidents as these, and other things considered, have sometimes put the Author into a fit of Musing; and he hath often complained, That the same Fortune hath befallen him in this long and laborious Work, as usually attends Builders. Such, seldom or never come off with the Double or Treble of that Trouble, Cost, and Expense which they first designed. At first they propose to themselves a Convenience; but are farther drawn in, either by their own Fancy, or the Tricks of Artificers; so far, as not seldom to complain, That they can neither go back, nor well proceed; but are driven into such Inconveniences, that the Family is often indangered to Erect the House. At first, the Author designed only a Convenience for a single Person; but the Structure is grown a burthen insupportable to him, as any who know him in all Circumstances of Health, and other Abilities, and the Nature and Condition of the Charge, will easily judge.

However, as to what is past, there is no way but to be animated both against the former usual Accidents, and even his own Defects. Of the later, he is very sensible, and is more apt than any other to think meanly of his own Performances, in which he can never satisfy himself; and yet without some stock of Confidence, no Work beneficial to Mankind can ever be begun or carried on. He prays thee at parting to take these few hints along with thee. First, That his way and Method in this Work is new, and not formerly practised, and therefore, if it be not so exact, but have some Mistakes, good natur'd Persons will easily excuse his well-meaning Design, who may they the way to others to do better, and from his Experience could easily amend what in the first Attempt cannot but be more Defective. Therefore if thou find it in this Volume, a greater number of Constitutions or Edicts mentioned than was intended, and possibly concerning the same Subject, consider, that in such a multitude as he ran through, his first Choice and Survey, could not be so regular and exact. But though they may seem many upon the same Subject, and often relating to Officers about the Court and Country; yet there is scarcely any one but hath something new, something observable more than that preceding it; and the subject is *Roman*, belonging to the *Roman Empire*; The Laws, Language, Customs, Antiquities, and even particular Remarques of which, the World hath thought fit to value

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value as Learned, and to be had (especially by all Scholars) in great Esteem.

The Reader must also know, That the Author at first designed to add Ecclesiastical Affairs to those of the State, and to joyn them in one Volume; but upon second Thoughts concerning due Method, hath found it necessary to reserve his Collections to a Volume by themselves, to which this second will afford great, and even necessary, Light to the understanding of the Ecclesiastical Polity; Church and State having been as Twins, and embraced the same Modes of Government. But it will be most profitable to have them treated of apart, especially after *Constantine's* time, when the Polity was grown up, and plentiful matter was afforded for History from the Actions of Christians amongst themselves, and especially from the Struggling of Christianity with Paganism, its great Endeavours to suppress it, the manifold Edicts and Constitutions of Emperors, published to this end and purpose. These afford noble Matter for a Treatise, chiefly to be wrought out of the Body of the *Theodosian* and *Justinianean* Codes.

Something at last should be spoken concerning the Language and Style of this Volume; but the Reader cannot be supposed so Ignorant, as not to distinguish Habits; what is fit for an History, and what for a Poem or Romantick Story. Each Subject hath its proper dress; as to which, though the Author possibly hath not been so exact as he should, or possibly could have been, and even to hit the humour of the Times, which still will be making Modes and Dresses, yet he despairs not of Excuse from those that are more understanding and learned. Such Persons will remember, That the Ancients accounted *Peripatuity* to be the greatest Virtue of Speech.

T. P. T. A. H. M.

O F

TO THE

CHAPTER I

Sect. I.

*From the Monarchy of Constantine to his Death ; the space of
Thirteen Years and odd Months.*

Constantine having overthrown and wholly subdued Licinius, his Enemy, (both as *Christian* and *Emperour*) obtain'd the Sovereignty of the whole *Roman* World, in the *Eighteenth* year of his Reign, the fourth of the two hundred seventy fifth Olympiad, the thousand seventy seventh of *Rome*, and the twelfth Indiction, A.D. CCCXIII; his two Sons *Crispus* and *Constantine* (*Cæsars*) both of them the third time being *Consuls*.

A.D.

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*de bis
veniam*

1. i. de

SUMMARY

sordinari
in condizi

d. Totod.
r. 16 lib.

Remotis
Tyrann

de infra-

3. Tit. 14.1.

2. Having Completed his Victory at *Nicomedia*, (the most Eminent City of *Bithynia*, and all those quarters) he there continued near five Months, as well for the re-settlement of his Affairs, as the Love he bore to the Place; and then returned with *Licinius*, his Prisoner, into *Macedonia*; and came to (a) *Thessalonica*, where he made several Laws, both for the Security of his Estate, and the general Welfare of his Subjects. The Army he obliged, by ordering the Privileges of the (b) *Veterans*, or old Emerit Soldiers, to be Recorded in that they called *Encaustum*, or *Ceruffi*, after the soft durable manner. The burthen, which during the Tyranny of *Licinius*, had lain upon the Inhabitants of *Chalcedon* and *Nicomedia* by unequal Impositions of (c) extraordinary Charges, he took off, by referring things of this nature to the Discretion of the Governours of the Cities. Then did he by another (d) *Edict*, repeal all the Laws and Constitutions of *Licinius*, which were contrary to the antient Laws, or his own Decrees, as it was the constant custom of Emperours to reverse all things that had been Enacted by those they called *Ufurpers* or Tyrants, either presently after their Fall, or as soon as a fit opportunity presented it self; and as he formerly had dealt about the Ordinances of *Maximin*, Now for our Understanding

3. Tit. 14.1.

a) Eccles. Hist.
10.
C. penult. vitæ
Constantini. l. I.
C. 47, 48.

His Character.

The publick
Acts of him
and his Judg-
es ruled.

Constant re-
formeth mat-
ters in the
East.

Restraints Us-
ry.

Tyranni & Ju-
 dicum ejus Ge-
 ntilis infirma-
 tis, nemper
 calumniam, vel
 id quod sponte
 fecit, evertite,
 nec quod legi-
 timè gessim est.
 Dat. Prid. Id.
 Febr. Paulino
 & Juliano
 Cons. Cod. Th.
 lib. 15. Tit. 14.

Centesima usura
fuit quæ in
nummos cente-
nos singulos
nummos, singu-
is mensibus
vastaret. usura
quippe olim,
et apud Græcos

is nomina-
im interdici-
r hoc ipso anno
25. Conc. Nic.
an. 17. ut in-
uit Gothofre-
us, quem con-
le in hac Le-
es.

Invites any to
Accuse his
Courtiers.

Makes Conſtantine his Son
Caſar.:

Refrains
Coyners.

**What Cities
had publick
Mints.**

Constantine
putteth to
Death his Son
Crispus,

and *Fausta* his
own Wife.

whereas great Comaints were made against his *Favourite*, and those that were about him, which kind of Men do often great Mischief, and cause a good Prince (otherwise) to be ill spoken of; and his Government to be traduced by the People; that he might not always be disquieted with Clamours, and to provide against the Ambition and Covetousness of his Courtiers, he Published another Edict this year (the same wherein the Council was held at *Nice*) from *Nicomedia*, whereby he gives leave, nay invites any one, freely and without fear, to come forth, and Accuse any of his Friends or Favourites, promising Rewards to such as could make good their Accusations; and concluding his Edict with a most Religious Protestation. Having made this Law at *Nicomedia*, where he remained some time after his coming from *Nice*, he took a Progress into *Thrace*, *Dacia* and *Mysia*, to *Aquila*, or the Waters, whence another Law of his bears Date, concerning the *Augurs*, or Provisions for the Army. What Waters these were is not certain, though such a place there was, not far from the City *Nassus* in *Dacia* (where another of his Laws concerning Witnesses bears also date this same year) as appears from *Antonine's Itinerary*; and There were other hot Waters in *Thrace*.

5. About this time he conferred the Dignity of *Cæsar* upon his Son *Constantius*, and sent him into *Gall*, to defend that Province against the Barbarous Nations. In the beginning of the following year, his Residence was either in *Thrace*, or in *Macedonia*, (at *Horacia*.) whence he removed Westward to *Sirmium* in *Pannonia*, and by a large Edict to the People of *Rome*, made provision for such as were under Age, against the Frauds and ill Administration of their Guardians, better than was afforded them by former Laws. From *Pannonia* he moved towards *Italy*, and in his way took *Aquilia* and *Milain*, in both which Cities he made Edicts. In the latter he published a Constitution against private Coyneers, Confiscating the Estates of such as should procure any Money to be made, but in the publick Mints; in all places Coyneage being reckoned amongst Royalties. Now it will not be amiss to let the Reader know what Cities of the Empire were privileged with the use of Mints. In the East were *Antioch*, *Alexandria*, *Cyzicus* in *Bithynia*, and afterward *Constantinople*. In the West, the *Notitia* of the Empire reckons up fix several Mints in the time of *Theodorus Junior*, and *Valentinian* the Third; *viz.* those of *Siffia* in *Pannonia*, *Aquileia*, *Rome*, *Lyons*, *Arles* and *Triers*, every of which had its several Procurator there mentioned. These were the most known and ordinary Places; but that Money was also stamped here at *London*, at *Ferlan*, and in other Towns, appears by several Coins yet Extant.

6. Hitherto we hear no ill of *Constantine* in Particulars, and yet he was a *Mortal*, and being possessed of the highest Power upon Earth, must needs be liable to various Temptations arising from the Grandeur of his Estate. But now we are told of some Acts both Unnatural and Cruel, which supposed must have fallen out about this very time, viz. the putting to death of his Son *Crispus*, and other Relations. We say supposed; for that he put his Son to death some Authors utterly deny, although, to speak indifferently, they are over-ruled by the Testimony of a far greater number: He that tells the Story first with Circumstance, is indeed a bitter Enemy to *Constantine*, upon the account of Religion, and subjoins a most low Lie to it, making this the occasion of his Conversion to Christianity; as we shall see in a more proper place. He writes, *That coming to Rome, being full of Arrogance, he thought it was to begin his Impiety at his own House: for he put to death his Son Crispus, who was dignified with the Title of Cæsar, because he was suspected to have to do with his Step-mother Fausta, without having any respect to the Law of Nature. And whenas Helena, the Mother of Constantine, took it exceedingly to heart, and sorrowed about measure for the death of the Young Man, He, as to Comfort her Saved one Mischief by another that was greater, causing Fausta to be stifled in a Bath heated on purpose above the ordinary Custom.* Those that most oppose this Relation are *Sozomen* and *Evagrius*, both Writers of Ecclesiastical History. *Evagrius* Declines rather than Argues. *Sozomen* urges, that *Crispus* could not be put to death, because he lived till the twentieth year of his Father's Reign, and in the mean time made many Laws on behalf of Christians and Christianity; as, both the Dates and Names which those Laws do bear, sufficiently evince. This Reason is rejected as very frivolous by some who, to make way for the Baptism of *Constantine* at this time, would have him Guilty of the Death of his Son, or any other thing; but yet there is more in it than they will own: for *Zosimus* makes the Death of *Crispus* the occasion of *Constantine's* forsaking Paganism, because, forsooth, that could not afford him any Expiation for such Crimes, and of turning to Christianity upon promise of Pardon, which its Principles. upon sincere Repentance, do allow.

3 2 5.

*L. 4. de Accusationibus & Inscriptionibus.
C. 1. de 9. Tit. 1.*

ta mihi summa
divinitas sem-
per propitia sit,
et me incolu-
mptum praestet, ut
in opto felici-
tate & florante
republica, &c.

*Fide Chronicon
Regum in Edit.
Gothofred.
Cod. Th.*

*L. Lex que Tu-
ores 22. Cod.
ust. de Admini-
trat: Tutorum;*

. 3. de falsa
moneta. C. 10.
10. 9. Tit. 21.
11. de Gotthofr.

See *Camden's*
Brit. and Bur-
ton's Comment
upon Anto-
line's Itinerary.

positus lib. 2:

Seçt. 1. death of *Crispus* gave occasion to his Father's Conversion, when by all account of Times, and by the many Laws yet extant, as Learned Men observe, it evidently appears, that long before the twentieth year of the Emperours Reign, wherein, or the year preceding, *Crispus* was Consul, both Father and Son were Christians, and vigorously by their Edicts promoted this Religion? *Constantine's* Conversion was long before, and it's certain, *Crispus* was alive in or about his twentieth year.

7. That which *Zosimus* therefore makes the Effect of the death of *Crispus*, hence appearing absurd and ridiculous; the thing it self might well be thought also forged, if there were not other Testimonies which affirm the Fact, though they are utterly silent as to any such thing produced by it. *Ammianus Marcellinus*, who lived in, or about these times, mentions his putting to death, and also the Place, which was *Pola*, a Town of *Lydia*. And though the History of *Eusebius* be silent as to this matter, which *Esagrius* urgeth as an Argument against *Zosimus*, yet to this it is answered, that into his *Chronicon* it is inferred, if not by himself, by St. *Hierome*, or some who published it near these Times. And that not only other Heathen Writers, but Christians also, who for the contrary reason bore as much respect to the memory of *Constantine*, as *Zosimus* did Malice, mention it as a Matter they sufficiently believed. It must not be denied, but that at this time *Constantine* was taxed for some Severities, and particularly twitted for Cruelty, by a Libel fixed on the Palace-Gate, by procurement of *Abulavins*, who was afterward Consul, and at present the *Præfess* *Prætorio*. Therefore, granting that *Crispus* was put to death, the Cause is to be inquired after; for, Punishment, except either there be no Cause, or a slender one, is not to be esteemed Cruelty. *Zosimus* tells us, he was suspected to have to do with his Step-mother *Fausia*, thereby possibly, both casting upon him some Imputation of Incest, and making out the Cruelty of his Father, in that it was but a Suspicion: for, had it been true and evident, such a Provocation as *Constantine* was of having one's Bed defiled by one's own Son, might have enraged a Man of so far more Phlegmatick Constitution than was *Constantine*. That his Death happened by occasion of *Fausia*, is affirmed by all; and the general Opinion is, that it was procured by her seeking. But this was not for forcing her, or having to do with her; but as we in charity believe, because he refused to do what both Religion, and his Duty to his Father foisted, but the most ardently required. When afterward *Julian* objected this Death of *Crispus*, and of other Relations against *Constantine* to *Arius* the *Præfess* *Augustalis*, and *Martyr*, he is said to have excused in this manner: "As for his Wife *Fausia*, he justly put her to death, for that she imitated the ancient *Phædra*, in calumniating his Son *Crispus* for being in love with her, and offering her violence, as she of old did *Hippolitus* the son of *Thebes*. First, he punished his Son as one who had ragged with Lust towards his Mother, and he did it like a Husband. Afterwards, when her deceit was discovered, he caused to be executed upon her a Sentence the most just of all others. To the same purpose, as is further urged, writes *Zonaras*, and other later Historians, though *Gregory of Tours*, the Historian of the *Franks*, will have them both Executed as Traitors: Very probably, it is conjectured, that *Fausia* procured the Prince to be put to Death, to make way for the Preferment of her own Issue; that several Courtiers and some Relations joyined with her in practising thus upon the Credulity of the Emperour, and that he finding how he had been abused, at length punished both her and them. For *Eutropius* writes, that very many of his Friends he put to death, amongst whom was young *Licinius*, his Nephew by his Sister; although it seemeth also, that the Law we lately mentioned, whereby he invites all men to Accuse and Convict any of his Friends, or those about him, is hitherto to be referred; and that there was some great Mis carriage among the Courtiers, some notable thing which he suspected, and endeavoured to discover.

8. From *Anquilia* (not far distant from *Pola*, where we hear *Crispus* was put to death, faith *Ammianus*) and *Milain*, *Constantine* went to *Rome*, and there continued high three Months, viz. *July*, *August*, and *September*. During his abode in the City, he celebrated his *Vicennalia*, or Solemn Feasts and Pastimes for joy he was arrived at the twentieth year of his Reign, and which he had at the beginning of the year celebrated at *Nicomedia*, with great Magnificence. But if we may believe *Zosimus*, he derided the Procession of the *Eques* or Knights, which was wont to be made up to the Capitol, at the time of Electing or Approving them, which procured him the hatred and Curses of the *Roman* People: and probable enough it is, that there arising Discontents between him and them upon the account of Religion, and his endeavouring to exterminate Paganism, thereupon he took a Resolution to fix his Residence at some other convenient place of the Empire. And where-

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as *Licinius* in his time had subtly changed several matters in the City, so as to oppose the growth of Christianity; now *Constantine*, to hinder the progress of Paganism, (as we may easily guess on both sides without presumption) made also bold to repeal them. The Discontent about the Procession hapned, as *Gothofred* thinks, gathers, about the *Ides of July*; and about the same time he published two Laws for nulling what Illegal things had been ordained by *Licinius*, and regulated what he had disordered concerning both *Senators* and *Equestes*, directing one to the *Senate* and *Præfess* of the City, who was Chief of *Senators*, and the other to the *Præfess* *Vigilum*, who was Principal of the *Equestes*; so that this latter Law seems to be designed against the Procession, which on the *Ides* was to follow. By the other Law, (both of them seem to the Commentator to have made up one and the same Edict) it appears that *Licinius* had debased *Senators*, and forced them down to the Employment of *Navicularii*. These *Navicularii* were a Body of Sea-faring men, ordained for Transportation of Corn and publick Provisions in several Quarters of the Empire, being a Set Number, and that at their own Expence, succeeding by turns in the Charge and Burthen; their Sons and Heirs were liable to the Burthen, and if any number of the Body fail'd, a supply was made by the *Præfess* *Prætorio* usually, and few were exempted or privileged, not *Jews*, if they had sufficient Estates. Such as they called *Curiales*, or bore Office in Cities, were liable, but not *Senators* ordinarily; yet such as possessed their Lands or Estates, were liable according to what they possessed. To this Function they were always obnoxious, so that scarcely could they be Executed by any greater Honour obtain'd. They were constrain'd to build Ships and Vessels of certain burthen; yet so as the Country supply'd them with Materials. As their Charge was great, so had they very great Privileges conferred on them by *Constantine* (who this very year, for the better supply of *Rome*, encouraged them) and most of his Successors, till after *Theodosius* the younger, in whose Code sixteen Laws are Extant concerning their Immunities; and by various Constitutions on the other side, Provision was made against their Frauds and Negligence, as we shall largely find.

9. Such *Senators* as had been by *Licinius* debased to this Employment, *Constantine* (upon their Petition, and in Conformity to what he granted also to Christians, whom *Licinius* had burthened by other publick Charges) leaves to the *Senate* it self to be considered and restored, if their Birth, Manners and Estates were Suitable, and such as they should pitch on, were by the *Præfess* of the City to be presented to him for his Confirmation, it being the *Præfess*'s Duty of course to give in the Names of all New, or Exempt *Senators*, to the Prince, and that every three Months. But *Constantine*, having staid at *Rome* the time lately mentioned, took his last Farewell of it, and removed at the latter end of *September*, by the way of *Spaleum* and *Milain* to *Sirmium* in *Pannonia*, in all which Places he made Edicts, which for urgent reasons respecting Religion, we must largely insist on in another place, and therefore in this Volume must omit them. From *Pannonia* he took his way into *Macedonia*, and there made some stay at *Thessalonica*, the beginning of the following year, which was partly the twenty sixth and part of the twenty seventh of his Reign. A. D. A. D. 327. Cccxxvii *Constantine* *Cæsar* the fifth time, and *Maximus* being Consuls. From *Macedonia* he went into *Dacia*, and for some time resided at *Serdica*, whither for several years following he often had recourse, having at this time War with the *Goths* and *Taifals*, a People inhabited beyond the Rivers *Oesje* and *Danow*, the later of which he often passed, and for his Ease and better Expedition, caused a Stone-bridge to be made over it. *Zosimus* insinuates, according to his Custom of Defaming him, as if lying carelessly and negligent, indulging his Voluptuous Humour, he gave Encouragement to the *Taifals*, a Scythian Nation, to invade the Empire; and that he would, or durst not fight, but lost the greater part of his Army, and was forced by flight to provide for the safety of his Person. Now that this is a great Calumny, these things must make us believe. For his Sloth and Ease, we may be satisfied to the contrary by the Laws he made at this time, the Dates whereof, and several Places where they were made, plainly shew, that for these two or three years he reposed very little, but was ever moving to and fro upon the Borders, and was much at *Serdica*. For his Success, other Writers affirm, that he had the better of the *Scythians*, and not only freed the *Roman* Empire from being Tributary to them, but forced them to submit to that Burthen, which none had done before him. For confirmation of this, there is a Coin still extant, stamped in memory of his Victory over the *Goths*,

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Sect. 1. *Goths*, which the Reader may see Exemplified in *Baronius* his Annals. But of this A. D. 330. more hereafter.

New Rome, or
Constantinople
founded.

Upon what In-
ducements.

At what place.

The State of
Byzantium.

10. The only truth in *Zosimus* his Relation is the Circumstance of time that this War hapned, when New Rome, or Constantinople was founded. For now it was that a second Head began to arise out of the Neck of the Roman Eagle. We can safely believe that Writer as to this Matter, that he might take offence at the Senate and People of Rome for their being averse to his Religion, and that this was a Motive to his Resolution of chusing out some other Place wherein to fix his Imperial Seat. But this might not be the only Inducement. Another urgent Reason may be fetch'd from the present State and Condition of the Empire. The great Dangers that now threaten'd it, were the Inroads made by the Barbarous Nations inhabiting toward the North-Eastern parts of Europe, towards Macedonia and Thrace. Hence it was, that those dreadful, those ravenous Swarms of Locusts took their flight, which at length over-power'd the Eagle, spoiled him of some of his best Western Plumes, and nestled themselves in his very Throne. The Provinces lying about Italy and Rome, were at present in Repose, and what Mischief hapned afterwards came most out of the Quarters but now mentioned. This made the Prince his Presence very necessary in the North-Eastern Parts, it not being safe, either for the Empire or himself, constantly to Manage Wars at a great distance by Lieutenants, who having got the Command of Armies, commonly usurp'd. *Constantine* seems to have born greatest respect to *Nicomedia*, whither often he repair'd, and there drew his very last breath. But though being a City of *Bithynia*, which lies over against *Thrace*, it was not far distant from those Quarters; yet being situate in Asia, and over the Sea, a more convenient Place there might be found, the danger lying chiefly on this side the Water. Therefore having refused *Nicomedia*, for the same reason he might reject the Place which *Zosimus* tells us he first pitch'd upon, betwixt *Troas* and old *Ilium*, though already part of the Wall was built, which was still to be seen in this Writer's days by those that sail'd toward the *Hellepont*. *Sozomen* also writes, that in his time the Gates were to be seen on an Hill not far from the *Hellepont*, and a little above the Tomb of *Ajax*, where the *Greeks* were reported to have had their Camp at the Siege of *Troy*. This might have been one reason for fixing his Seat in *Thrace*. To which may be added, (which is also thought) that the Eastern Provinces of Asia being far more distant from Rome, and lyable to the frequent Incursions of the *Persians* and others, it was the more requisite, that for their Supply and Safeguard the Emperour should have his Residence nearer hand; and, in respect of the Western and the Eastern Borders, toward the middle of the Empire.

11. *Sozomen* tells us, that while he was about building in the Place near to *Ilium*, God appeared to him by night, and Commanding him to seek out some other Seat, put him in mind of *Byzantium*, to fill it with Inhabitants, and call it by his own Name. *Zonaras* writes, that he first had thoughts to build in *Serdica*, then in *Sigynus*, a Promontory of *Troas*, where he was reported to have laid the Foundation, and after that began a Work at *Chalcedon*; but Eagles were said to have taken up the Ropes or Lines used by the Workmen, and carried them over the Straights to *Byzantium*; which being often done, he concluding it was not without a Providence, went thither, viewed, and approved of the Place. *Byzantium* was formerly a very eminent City, of great Strength, very well Inhabited, and rendred famous by many Hostile Actions, related by us in the first Tome of this Work. But nothing more Memorable hapned concerning it, than that siding with *Niger*, it sustain'd a Siege from the Emperour *Severus* for three years together, who Disfranchiz'd it, as *Vespasian* formerly had done, made it subject to *Heracles*, and pull'd down the Walls; but after, He, or his Son being reconcil'd, not only restor'd it to its former Privileges, but by Magnificent Works greatly Adorn'd it, and call'd it by the Name of *Antonina* (after the Son) which Name it retain'd no longer than that Family held the Sovereignty, but received its former of *Byzantium*. When *Gallienus* was Emperour, it ran a more dangerous Risque than ever, being made so desolate by his Army, that scarcely any of the Antient Inhabitants remained; yet by the same Emperours Law it revived, and Siding with *Licinius* in the late Civil War, was grown to such Strength, that it could not be Conquered, till after his Overthrow it yielded of its own accord. It was very large, as *Zosimus* describes it, and fenced with seven Towers, besides most strong Walls; but above all things, for its Situation to be commended: for it stood upon an *Isthmus*, or neck of Land, formed by that they call'd *Ceras* or the *Horn*, and

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(2) Ad an.

330. num. 4.

Lib. 2. l. 2.

Tom. 3. in Citi.

Antiqu. Mag.

no.

Vide Excerpta

Dionis in Strab.

re & Zonar.

Sect. 1. the *Propontis*, a Place so Convenient, as well as Pleasant, that without leave from A.D. it obtain'd, none could well pass into Europe, or Asia, it being as it were the Bridge 328. and the Haven of the two Worlds.

12. *Constantine*, satisfied in his Choice, for these Reasons, gave order for the New Work, to enlarge and make of it a New City, the Foundations whereof were laid on the twenty sixth of November, in the Consulship of *Jannarius* and *Justus*, in the year of our Lord Cccxxviii; and in the Consulship of *Gallicanus* and *Symmachus*, on the eleventh of May, in the third Indiction, A. D. Cccxxx, being the twenty fifth year of his Reign, it was Dedicated, and call'd by the Name of New Rome, and after him, *Constantinople*. And that it might not bear the empty Name of Rome, he provided both by the Number and Lulure of the Buildings, and by Imperial Privileges Conferred upon it. As for the former, *Zosimus* gives us this Account; "That in the Place where formerly was the Gate of the old City, he Erected a Forum of a round Figure, which he inclos'd with large Porticus's or Galleries and rais'd two mighty Arches each over against the other of Proconnessus an Marble, through which a Passage lay into the Porticus of *Severus*, and out of the old Town: and to make the Place far larger than it was before, he drew a Wall fifteen furlongs beyond the former, which took in the whole *Isthmus* from Sea to Sea. Having thus enlarg'd it he built a Palace not much inferior to that at Rome, as also a Cirque with all Elegancy imaginable, part of which he made of the Temple of *Caesar* and *Pollux*, and he reckons up other Places wherein he caused to be set the Statues of the Heathen Gods (which the Author of his Life tells us, was out of Derision) and he adds that he built Houses for certain Senators which followed him from Rome. To speak more Compendiously, and yet more to the Purpose than *Zosimus*, he divid'd his new City into fourteen Regions, he built a Capitol, fix'd a golden *Mithraium* or a Mark in the middle, whence all Miles were to be measured and counted. He made a Circus Maximus, an Amphitheatre, several Forums, Porticus's and other publick Works, and adorned the City with so many Columns, Pyramids, and things of Rarity and Antiquity, that indeed as *St. Hierome* observed as well as others, he spoil'd all other Places, especially Rome, of their Ornaments to enoble this; besides the many Churches, which upon a Religious account he caus'd to be built, which added much to the Lulure of the City. Above other Curiosities a Column of *Porphyr* he brought from Rome is most valued, which he caus'd to be erect'd in the Forum, with an admirable Statue of Brass upon it; that of *Apollo* as was reported, and first fetch'd from *Ilium*; but he Commanded his own Name to be put upon it, and it stood in that posture till the days of *Alexius Comnenus*, in whose Reign it was blown down, and Killed many Persons that were under it. Hither he is also reported to have brought the Palladium from *Troy*, and many more Rarities which the Reader, if he please, may find in the Book which *Codinus* hath written concerning the Originals of *Constantinople*. In conclusion as to this Point *Zosimus* further tells us, "That He so happily enlarg'd it, even to the extent of the greatest City, that the succeeding Princes here fix'd their Abode, and hither drew a greater multitude of Men than was necessary, which flock'd to it, either as Soldiers, or Merchants, or for some other Course of Employment. In so much that they enlarg'd its Bounds, and compass'd it with far larger Walls than *Constantine* had done before them, and suffer'd the Buildings to be so many and so thick, that the Inhabitants whether in or out of doores were straiten'd by reason of the vast number of Men, and other Animals were perpetually in danger, and no small Portion of the adjoining Sea became join'd to the Land by Buildings rais'd upon Piles, which of themselves were sufficient to make up a large City.

Whether at
first it was A-
dorned with
all the Pri-
vileges of old
Rome.

13. Thus might this City be call'd New Rome in reference to the Buildings and Ornaments, wherein it fully resembled the old; but these were but as the Carcass, which without great Privileges and Encouragements could not long subsist. Power and Authority, Sovereignty and Dominion must give Imperial Life unto it. As to this a very Learned Man observes; that at its very Dedication it was made partaker of Empire, and Associate with the other; yet is perfwaded that at the first it was not adorned with all the Privileges of old Rome, because by a Constitution of *Valens* (not *Valentinian* and *Valens*, as he and others mistake) long after, the Jus *Italicum* or Privilege of Italy was restored to it: Now if it had been before this possessed of all Imperial Authority; what could this *Jus Italicum* have signified? what needed it a Pittance of Immunity which was already seiz'd of all Rights of Majesty? Therefore he would fetch the Rise of its Grandeur from a Law of *Theodosius* the First, confirm'd afterward by *Honorius* and *Theodosius* the Second. Yet is there

Vide Jacob.
Gothofred. Chron.
sive Histori-
com in L. l.
de. 328. §.
330.

Lib. 3. c. 32.

Berthelms 78.
Hieron. Diarist.
lib. 1.

De Jure Italiae
quod Constanti-
nus Cod. Theod.
lib. 4. tit. 15.

Sect. 1. no such Law of Theodosius the Elder extant; he guesses only there was, because that *Sozomen* plainly affirms, that at the time of the first Council of *Constantinople*, which was in the very days of *Theodosius* the First, this City had not only obtained the Name of New Rome, and in like manner had a Senate, together with the same Ranks or Orders of Persons and Magistrates; but used the same Ensigns or Badges of Authority as the other Rome did, and in both, the Privileges and Honours fully agreed. Now from *Theodosius*, it is Evident, that *Constantinople* owed much to *Theodosius* the Elder; may he makes it a Question, whether not as much as to *Constantine* himself. But as for what *Theodosius* speaks of *Theodosius*, he speaks in way of Panegyric, and it relates to the Buildings of the City. All others generally use such Expressions as ascribe the Rights and Privileges to *Constantine* as the Author, who having given Original and Name to the City, must have been thought to have had as much kindness for it as any other could. Therefore *Sozomen* (that we may Interpret one place of that Writer by another) having told us how he had beautified it by public Buildings, adds, that he called it *New Rome*, and (which Explains the other) *Queen or Mistress of all Roman Subjects Inhabiting in the North, South, the Sun-rising and the Mediterranean Sea, from the City's standing upon Ister, and Epidamnus* with others, seated upon the *Ionian Bay*, as far as *Cyrene*, and that part of *Libya* adjoining to the Place called *Borium*. He appointed (so he proceeds) a great Council, which they call a Senate, and assigned to the Senators the same Ranks, Honours and Privileges as belonged to the ancient Romans. In conclusion he endeavoured to make this City called after himself, in all things equal to Rome in Italy, neither did his Success fail him; it increasing so much, as by Consent of all Men it surpassed Rome, both in the multitude of its Inhabitants, and in Riches. To this Equality so many Authors bear Witness, that it would be tedious to produce their Testimonies, so that when others write he made *Constantinople* equal to Rome in Honour, it was not in empty Honour and Fame, and it was not to no purpose that he enacted a Law whereby he gave it the Name of *New Rome*, and as *Socrates* tells us caused it to be Engraved in a Pillar of Stone placed at the *Prætorium* near to his own Statue on Horreback.

14. As for the Law of *Valens* concerning the *Jus Italianum*, it gives no new Privilege to the City, but restores what it formerly had enjoyed, and was, it seems taken away, as by the words of it expressly appears. This *Jus*, Privilege or Immunity of *Italy* consisted in two things especially: *viz.* a peculiar, easy Course of *Jud.* Confirmed in *Leg. capio* and the like, and in Freedom from some Tributes, which extended both to the Persons, and the Soil or Ground, granted long ago to Rome and Italy by a Law preferred by *Metellus Nepos*, the *Prætor*. Amongst the other Privileges of Old Rome this had been Conferred on *Constantinople* by *Constantine*, and taken away lately by *Procopius* the Tyrant, or *Ursper*, who as *Theodosius* testifies harassed, during his Tyranny there, both the Senate and People with Tributes and Exactions, and therefore *Valens* by this Law puts it but into the State it formerly was in, renewed but its Privilege, and restores one of the Flowers of its Imperial Crown; which that it might be faster set, and hold for the time to come, as *Constantine* caused the Law of Universal Privilege to be Engraved in a Stone-Pillar, he ordains, that this his Law of Restitution, not only be Registered amongst the Public Acts, but cut also in Brazen Tables with all due Solemnity. This would content the minds of the Citizens, especially those of the inferior sort, who would be more sensible of the Violation of their Immunity from Taxes than any other, who would little care for the Grandeur of the City in point of Majesty and Authority, if they were forced to empty their Purfes, and were burthened with Contributions. And this Burthen could not but be more uneasy to them, because unusual; and especially for that the Multitude had been drawn to Inhabit this New City, not only by Freedom from Taxes, but by the great Munificence of the Founder, whose Design it was, that they should, not only have their own Money, but receive part of their Maintenance at his Expence. For in the second Year after the Dedication of the City, for the Encouragement of Builders and Inhabitants, he distributed Bread amongst them of free Gift, amounting to forty thousand measures of Corn daily, which was brought out of *Egypt*, and the Allowance was not only continued during his Time, but long after his Death, and was increased by some of his Successors. Besides this way of Encouragement he gave great Sums of Money to such as built to defray their Charges, and to his new Citizens great Interest in his Demefne-Lands lying in the East, in the Dioceses of *Asia* and *Pontus* to that none but such could hold or Alienate the said Lands; and this he granted by

Distributes amongst his Citizens great quantity of Bread.

A. D.

330.

Lib. 1. c. 2.
Lib. 1. c. 2.
Lib. 1. c. 2.
Lib. 1. c. 2.
Lib. 1. c. 2.

Lib. 1. c. 2.

Lib. 1. c. 2.

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Lib. 1. c. 2.

Sect. 1. by a Law, which *Theodosius* afterward repealed: the Design of *Constantine*, as he faith, being already accomplished as to the Building of the City, and the Publick Revenue being much lessened by that and other Practices, which he also thereby redrefteth.

15. But to provide for the Pleasure and Convenience of the Inhabitants, as well as their Profit, in the same Month wherein the City was Dedicated, he opened the Bath of *Lucippus*, adjoining to the *Cirque* and the *Palace*, made long before by the Emperor *Severus*; a Great and most Magnificent Work. For the better serving of this Bath and other parts of the City with Water: the fourth day after the Dedication he published an Edict, for the cleansing of the Aquaducts, which Burden then he imposed upon those through whose Grounds they pass; requiring that no Trees grow within fifteen Foot of them, lest they should Mine the Works; and for this in the way of Recompence he grants Immunity from extraordinary Burthens, confiscating their Lands in case of Negligence. Having thus consulted for the Profit and Pleasure of his new Citizens, he could not be wanting in what tended to the Instruction and Ornament of their Minds; but for this Purpose, as also to fill the Place by a greater concourse of People, he provided for the publick Profession of Learning in the City. Three Years after the Dedication, by an Edict directed to the People, and bearing Date from *Constantinople*, he confirms all the Privileges granted by his Predecessors to Physicians and Professors, and frees both them, their Wives, and Children, from all Employment and publick Service: or, daining that they neither be compelled to serve as Souldiers, nor to Quarter any thing (whether, or give Entertainment without their free Consent; giving this for a Reason, that they may the better instruct many in the Liberal Studies, and their several Arts. In like manner did *Julius Cæsar*, that he might draw People to Rome, then much emptied, make all that professed Physick, or the Liberal Arts, free of the City. So did *Augustus*, as *Dion Cassius* witnesseth, Grant Immunity from Employments to Physicians. But he that first provided for the Privilege and Immunity of Professors, was *Vespasian*, the same who first allowed Salaries to such as taught Rhetoric, out of the Publick Treasury; which Grace of his was afterward Confirmed by *Hadrian* at the beginning of his Reign, as also by *Antoninus Pius*, *Severus*, and *Antonine*, *Philip*, *Dioclesian* and *Maximilian*, all who were favourable to them, as were the Lawyers, who wrote much in their behalf. But all this hitherto done, extended only to their Persons, not to their Patrimony, their Estates and Families, the Immunity of which was reserved to *Constantine*, to be by him bestowed.

16. For, before this Edict (the occasion of our present Discourse) he had Published two several Constitutions for the Encouragement of Physicians, Grammarians, and other Professors of Learning, giving in the first, not only Immunity to their Persons, but to their Estates, securing them from violent Arrests and Injuries, with a great Penalty to those that should molest them, whether Bond or Free. Their Salaries due from the Cities he commands to be paid, and as for such Offices as were counted Dignities, he permits them either to accept or refuse them, as they should see occasion; however discharging them from common Offices and ordinary Services; because their Attendance upon their Patients and Scholars might require their whole time, he would not have them forced from their Employments; and yet left it should be imagined in the least, that they were barred from Honours, or Honourable Offices, it's left free for them to take or leave them, as they find convenient. Therefore they might be, if they pleased, in the Cities where they lived *Dumvires*, *Defensores*, *Gymnasarchæ*, *Ædiles*, *Prefects*, *Flamines* and *Legati*, which were both Personal Employments and Honours; and if they pleased they might refuse them, as *Phavorinus* did that of *Priest*, under *Adrian*, appealing to the Laws made in his behalf as a Philosopher. By his second Constitution he discharges the *Archidetri* & *Archidetri*, or the Physicians of the Court and of the City, of all Duties and Employments belonging to such Ranks and Orders as they might chance to be of, or the payment of Gold or Silver, or the furnishing of Horses; and extends the Privilege unto their Sons. "All those Immunities and Privileges he Confirms by this Edict made in favour of his new City, adding two more concerning the *Militia*, and Quartering of Souldiers. And now after four or five years, by reason of these Encouragements, so great Confluence was made to *Constantinople*, that so that the Founder was obliged by new Laws in both respects to provide for the Multitude. He directs an Edict to *Felix*, the *Præfectus Prætoris* of *Italy*, wherein after Signification, that there was need of very many

A. D.

330.

Chres. Ale.
zand.
Cod. Th. lib.
15. Tit. 2. c.
Cod. Justin.
lib. 1. c. 2.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

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Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Theod. lib. 13.

Sect. 1.

He makes
Constantine his
Son, Cæsar.

His Felicity.

20. By the Edicts of the following year, it appears, that for some time he resided in *Myſia*, but was paſſing to and fro, and for the moſt part was at *Conſtantinople*; and now being arrived at the thirtieth of his Reign, here he Celebrated it with great Magnificence. About this time (ſome ſay this very year, though others place it two years backward) he conferred the Dignity of *Cæſar* upon *Conſtantine*, his third Son, and (as *Zoſimus* writes, *Dalmatius* the Son of his Brother *Dalmatius*, being in ſome fort alſo made Partaker of that Imperial Dignity, adorned with Purple, and other Robes ſet off with Gold, and ſtyled *Nobiliffimus*, becauſe they were of his Kindred. The thirtieth of his Reign being over, the Author of his Life farther tells us, that having long before Married his Eldeſt Son, he procured a Wife for *Conſtantine* his Second, and ſolemnized the Marriage with all Splendor imaginable, feaſting the Men and Women apart by themſelves, and in honour hereof, beſtowing Gifts upon all Nations and Cities. Much about the ſame time Ambaſſadors came to him out of *India*, bringing Prefents of great Value, and greater Rarity, not only Gemmes, but certain Animals, unknown before to the Weſtern parts of the World: and he adds that this they did to ſignify, that his Empire and Dominion extended as far as the utmoſt Shore of the Ocean; and obſerves, that as at his firſt Promotion, the *Britanni* in the moſt Weſtern Parts of the World, firſt ſubmitted to him; ſo now at the laſt the *Indians* in the moſt Eaſtern acknowledged his Sovereign Authority. Having receiv'd this Acknowledgment, he divided his Empire amongst his three Sons, allying to *Conſtantine*, his Eldeſt, the Grand-father's ſhare, the Eaſt to *Conſtantine*, and that Part lying betwixt them unto *Conſtans*; but above all things deſirous, that they might be fitted for Government, he appointed them Tutors and Inſtrudors, the beſt that could be had, to teach them the Arts of Peace and War, the Liberal Sciences, and eſpecially to ground them well in their Religion. Thus the Author of his Life in his Panegyric way, who muſt not be undertood as if *Conſtantine* reſigned the Empire to his Sons and put off his Cloaths before he went to bed; but about this time, when he promoted his youngſt Son and Kindred, we find that the Empire was Govern'd in this manner: *Conſtantine*, the Eldeſt Commanded in *Gall*, and ſome Weſtern Provinces; *Conſtans*, when a Boy (as *Julian* teſtifies) had had the Name of Commander in *Gall*, but now Govern'd *Africa* and *Illyricum*, and *Italy* was ruled by *Conſtans*. *Dalmatius* was appointed to defend thoſe Parts that bordered upon the *Goths*, and as ſome ſay, *Meſopotamia*; and *Anniballianus* had Charge of *Cappadocia* and *Armenia* the leſſer.

He dies.

21. This Diviſion as we ſaid, was not made by *Conſtantine* in order to the deſerving himſelf of his Sovereignty; but to the better Government of the Empire, and the Breeding of his Sons; yet this ſeemed a Preparatory or Ominous to what within little more than a year enſued. He was now above fixty Years old, a great Age for Princes as uſually it happens. All this while he had continued in perfect Health and Vigour, ſo as to endure Exerciſe, Riding and Travel. His Underſtanding he had perfect, ſo as ſtill he would compoſe Prayers and Orations, Conſerve and Diſcourſe with his Friends, and aſſiſt with much Dexterity at the Framing of his Laws and Edicts, both relating to matters Civil and Military. Not long before his Death, he made a Funeral Oration in the Place where he was wont to ſpeak, and therein diſcourſed of the Immortality of the Soul, of the Rewards in the future Life, which attend thoſe that live well here, and the Punishments appointed for wicked Perſons. By this and other Courſes he took, he endeavoured to prepare himſelf for another World, and make his Paſſage into it more eaſie and quiet: but his Meditations were interrupted by News from the Eaſt, where the *Perſians* made Diſturbance; which when he received, intending (as he ſaid) to make this his laſt Victory, he raiſed an Army with all Expedition: of this the *Rome* having Notice, and fearing to be engaged in a War with him, ſent their Ambaſſadors, who upon their humble deſire of his Friendſhip; and ſolicitude to give Satisfaction required, obtained Peace. *Conſtantine*, about this time, entering into another Journey; for now he began to be diſtempered, which when he ſaw, and that his Diſeaſe increaſed, he made uſe of the warm Baths of the City; and afterwards went to *Helenopolis* (a City built by him in Memory of his Mother) to perform his Devotions in the Martyrs Church. Hence he removed to *Nicomedia*, and there in the Suburbs thereof call'd *Achyrona*, having received Baptiſm, departed this Life on the twentieth Day of May, being Whiſſunday; as ſome affirm, in the fixty ſecond Year of his Age, and the thirty ſecond of his Reign (though others write ſomewhat variously, as to the punctual time) the firſt year

A. D.

335.

21. *Secundus*
anſus dat.
Vincitque pr.
ſon. Aug. &
14. Cod. Joffin.
de Offic. Juffin.
Provis. dat.
Nicomedi.
1 Kal. Novembris.

Vita Conſtantine
lib. 4. & 49.
ſub. c.

Orat. 1.
Circus. dixerunt.

Auguſt. P.
mendi. Vita
Circus. LL.

Codex. P.
Conſtantinopol.
4. c. 53.
ſub. c.

1. *Secundus*
anſus dat.
Vincitque pr.
ſon. Aug. &
14. Cod. Joffin.
de Offic. Juffin.
Provis. dat.
Nicomedi.
1 Kal. Novembris.

Sect. 1.

His Character
by Eutropius.

By Vitor.

of the two hundred ſeventy ninth Olympiad, the thouſand and ninetieth year of *Rome*, A. D. CCXXXVII. *T. Fabius, Titianus, Maximinus* and *Felicianus* being Conſuls, ſome reported that he was paym'd by his Brothers and Nephew; but he that firſt reported it deſerves no Credit, and they that received it from him were too remote from the time of his Death, to gain any better Reputation as to this matter. None of the Antients, be they Chriſtians or Heathens, making mention of any ſuch thing. But of the latter fort, what Practices ſoever were made againſt his Body ſome are conceiv'd to have offered great Violence to his Memory; which Wound, moſt of the former fort endeavour to bind up and heal, yet ſome gladly would keep it open, and make it bleed afreſh, and that out of kindneſs to the other Party, however they veil themſelves under the Chriſtian Name. Here, for very weighty reaſons, it highly concerns us, the Reader, and the Truth to interpoſe, but with a cautious and wary hand; if Incurable, ſuch we ſhall confeſs and leave it; but if it may be healed up, though not without ſome Cicatrice or Fear remaining, no good-natured Men will blame us for endeavouring to cauſe others to think and ſpeak well of the Dead.

And, in order to an indifferent Procedure, we ſhall (without mincing the matter) produce thoſe Characters which are given him by Writers that are eſteemed to have born him no good Will, and which indeed ſpeak the worſt of him: nay, we ſhall take it for granted, that ſuch Chriſtians as ſpeak largely in his Commendation, ſpeak out of Affection; and not producing their Denial againſt the Affirmation of the other (though there be as much Reaſon to believe Affection, as Malice and Hatred) Condemn him in all things his Adverſaries alledge, without all benefit of Compurgators, except Reaſon and unqueſtionable Records, ſuch as cannot be judged partial, do acquit him. Firſt then *Eutropius*, a Writer of the Pagan Perſwaſion, lays this to his Charge, "That by Property being ſomething altered from his goodneſs of Diſpoſition, he firſt began to perſecute his own Relations, as his Siſters Son, an excellent Young Man, of great hope, his Wife and verily many of his Friends: for this Character he gives him, that at firſt he was a man to be compared with the beſt; and toward his latter end with the Indifferent or Middle ſort of Princes. Innumerable Excellencies, he faith, both of Body and Mind were eminent in him. He was moſt deſirous of Military Glory, Fortunate in War, yet ſo as his Fortune did not exceed his Induſtry; for after the Civil Broils, he ſeveral times Deſeated the *Goths*, and at length granted them Peace, and gave the Barbarous Nations occaſion to have a deep Senſe and Memory of his Grace and Clemency. He was given to Civil Arts and Liberal Studies, was an Affector of Juſtice, and the love of his People, which he altogether endeavour'd to procure by *Liberalty* and *Courteſie*. As toward ſome of his Friends he was *uncertain*, yet extraordinarily kind, whom to enrich ſtill and advance, he would omit no occaſion. Many Laws kind, whom to enrich ſtill and advance, he would omit no occaſion. Many Laws he made, ſome Good and Equitable, more Superfluous, and ſome ſevere. And firſt of all others, adventured to advance a City of his own Name to that height, as to make it emulous to *Rome* it ſelf. Going about to make War upon the *Perſians*, who now haraſſed *Meſopotamia*, in the one and thirtieth year of his Reign, and the fixty ſixth of his Age, he died in the publick Suburbe at *Nicomedia*. His Death was foretold by a blazing Star of an unuſual Bigneſs, which the *Greeks* call a *Comet*, and he deſerved to be reckon'd amongst the *Divi*. So much *Eutropius*, as near as we can Tranſlate him, who lived when the *Latin* Tongue was much altered.

23. The next we ſhall produce, is *Aurelius Vitor*, one as little addicted to him, as the former. He having given us an account of his War and Dealing with *Licinius*, adds, "That having by admirable ſucceſs obtained the Monarchy of the *Roman* Empire; at the ſuggeſtion of his Wife *Fauſta*, as was thought, he cauſed his Son *Criſpus* to be put to death: afterward he procured his ſaid Wife to be ſtifled in a Bath; being reproved by *Helena* his Mother, which took moſt heavily at the death of her Grand-ſon. Then for his Character, he tells us, that he was greedy of Profit or Fame above Imagination, and yet he faith, he was wont to call *Trajan* *Herba parietaria*, for having his name upon ſo many Walls in *Rome*; he built a Bridge over the *Danube*: his Royal Apparell he adorned with Gems, and always wore a Diadem; yet was he moſt profitable to the State in ſeveral reſpects: By moſt ſevere Laws, he reſpected Calumnies; He cheriſhed Good Arts, and eſpecially the Studies of Learning; He himſelf was given to read, to write, to meditate; was wont to give Audience to Ambaſſadors, and hear the Complaints of the Provinces. Having made *Cæſar* his own Son, together with *Dalmatius*, his Brothers Sons, having lived fixty and three years, and thereof Reigned half

A. D.

337.

Tullian & Felicianus Conſuls.
Videturque pr.
ſon. Aug. &
14. Cod. Joffin.
de Offic. Juffin.
Provis. dat.
Nicomedi.
1 Kal. Novembris.

Peram infelice verum ſecundum aliquam Conſtantinam ex illa favorelli animi docilitate materis.
Insuper in de animi corporeque virtutes clarescant.

Cicilius Aristobus & Liberalitas
huius Studios deinde, effector
Fulgentius & de
maris, quem
omnes filii
Liberalitatis &
docilitateque
fuit.

Fuit vero ultra
quam estimari
poterat laudis
virtutis, huius
Trajanum Herba
parietaria
an ob titulos
multos aditus
infringens op-
pulari solitus
erat.
Commendatibus
tamvis vixit
multis fuit.

(10

S. fr. 1. (fo as thirteen by himself) He died of Sickness. A *Gibber* rather than fair-spoken; "A.D. 337. whereupon by common Proverb he was said for ten years to have been a most excellent Prince, for the twelve following a Robber, and for the ten last a Pupil, or Child by reason of his Immoderate Expensives. His body was buried in *Byzantium*, call'd *Constantinople*. These two give some Blows to the Memory of *Constantine*, and upon account of their Religion cannot but be esteem'd Adversaries to him, and of the other Party; but there are but Velites, their slight Weapons, weak or blunt; or if they would they seem to carry a Balm on along with them, for they Praise more than Dispraise him; but he that follows lays on Strokes indeed, and that with invenomed Steel. His Pen makes him so black and ugly, that scarcely any of those fair Lines can appear, which they both discern and own in him. And by what hath been already said, the Reader may easily guess, that it is *Zosimus* some part of whose Accusation we have had already occasion to mention; and now shall be faithful in producing what remains.

By Zosimus.

24. Scarcely is there any thing he ever did, or said, but this Writer if he can, makes an ill Confutation of it. Having first raised what Prejudice he may concerning his Birth; his Endeavours after Preferment he ascribes to the heat of his Ambition. In the Quarrel betwixt him and *Licinius*, he will have him the Aggressor, as being accustomed to break his Words; yet all this while he makes him to have conceal'd the Naughtiness of his Disposition. But *Licinius* being removed out of the Way, and all the Power being left in his own hands, he tells you he no longer dissembled, but acted according to his Lust and Pleasure. Then he gives us the Narration of the Death of *Crispus*, and how he began his Impiety at his own House; his changing his Religion thereupon, and his founding of his new City, upon the Quarrel betwixt him and his Subjects of *Rome*. After this he tells us how he was beaten by the *Scythians*, and giving up himself to a voluptuous Life, ordain'd the Allowance of Corn to the Inhabitants of *Constantinople*, and profusely spent the publick Revenue in useless Structures. But these are more general, and speak him a Bad Man: now follows more particularly what declares him a Fool, an ill Statesman, and a Tyrant altogether. He also (saith he) made a disturbance in the Offices of "Magistracy formerly Instituted. For whereas there were before two *Præfidi Prætorio*, who ordinarily executed that Charge; not only those that served in the Court were under their Command; but also such Souldiers as kept the City, and all they that lay upon the Borders, the *Præfidi Prætorio*, who was Esteem'd the Second after the Emperour himself in Dignity, had the Charge of Provisions^{for the Army} for the Army, and Power to punish such as offended against the Discipline there^{of}: but *Constantine* altering such things as had been well settled, divided this one Magistrature into four; for to the one of them he assigned all *Ægypt* with *Pentapole* in *Libya*; the East as far as *Mesopotamia*, besides *Cilicia*, *Cappadocia*, *Armenia*, and all the Maritime Tract from *Pamphilia* as far as *Trapesund*, and the Castles Situate upon *Phasis*; and moreover *Thrace* and *Myfia* (bounded by the Borders of *Afemus*, *Rhodope* and *Topeus*) besides *Cyprus* and the Islands *Cyclades*, *Lemnos*, *Imbros* and *Samolracia* excepted. To the second he Assigned *Macedonia*, *Thessaly*, *Crete*, *Greece*, with the adjacent Islands *Epirus*, *Illyrium*, the *Dacians*, *Triballi* and *Pannonians*, as far as *Valeria*, with the upper *Myfia*. To the third all *Italy* and *Sicily*, with the adjacent Islands; as also *Sardinia*, *Corfica* and *Africa* from the *Syrtes*, as far as *Cyrene*. And to the fourth the *Celte* or *Galls* beyond the *Alper*, with *Spain* and the *British* Island.

25. By this means having thus divided their Office, by other ways, he also studiously endeavour'd to destroy their Power; for whereas in all places, not only Centurions and Tribunes, but also those they called *Duces*, who served in the place of Generals, had Command of Soldiers; he by instituting *Magistri Militum*, whereof one commanded the Horse, and the other the Foot, with Power to order and punish them, much more infringed the Power of the *Præfidi Prætorii*. That this, both in time of Peace and War did enfeeble the State, he assures us. He will make appear: For the *Præfidi Prætorio* in all Countries collecting the publick Revenue by their Officers, and paying the Soldiers had all Military men at their Devotion, who considered it was they, that both paid them their Wages, and had Power to punish them, if there was occasion. But now there being one that pay's them, and another that punishes them, they do what they list, although one might also allege, that the greatest part of their Provisions are decyphered by the Captain and his Officers. *Constantine* did another thing, which made free Passage for the Barbarous Nations into the Roman Provinces: for all the Borders of the Empire being by the good Forecast of *Dioclesian* fortified with

Garri-

Sect. 1. Garifons and Caffes, and therein the Militia lying, the Barbarians were thereby
 barred of all Access. This Security *Constantine* abolished by removing the great-
 est part of the Souldiers from the Borders, and placing them in Towns where
 there was no need of them; whereby he deprived them of their Defence, which
 was lyable to the Inroads of the Barbarians, and plagued those Places with
 Souldiers, which were in Repose; and by this means many of them were utterly
 depopulated, besides the enervating of the Souldiers by the Pleasures of the
 Theatre, and other voluptuous Courses; and to speak simply, he laid the Founda-
 tion of those Mischiefs, which to this time have followed. Then after an Ac-
 count given of the greatness of *Constantinople*, he subjoyns, that all this being done
 he ceased not to burthen the publick Revenue with Pensions, which were not
 assigned according to Reason, but to persons unworthy and unserviceable. To
 such as paid Tribute he was burthenfom; but enriched such as were utterly use-
 less; for, Profuseness he esteemed Munificence. He laid a Tax of Gold and Silver
 upon all that exercised any Trade in all Countries, even the very meanest, so
 that Strumpets were not excused from it. Hence came it to pass, that upon
 the Approach of every fourth year, when this was to be paid, there was nothing
 but weeping and Lamentation throughout the City; and when it came, great
 were the Tortures which those Miserable Creatures endured on their Bodies, the
 Purfes of whom could not reach to the Imposition; so that Mothers sold their
 Children, and Fathers prostituted their Daughters to make up the Payment of
 this Tax, which they called *Chryfargyrum*. He devised also another Course to
 Torment those that had considerable Estates; for such he would call to the Digi-
 nity of the Prætorship, and under pretence of this Honour, make them pay a
 great sum of Money. So that when the Officers came to fee this executed in the
 Cities, all would run away into Foreign parts, as unwilling to purchase Hon-
 our at so dear Rates. All the Estates of those of greatest Quality he kept Re-
 corded, and imposed a Tribute upon them, called *Follis*; by which Impositions
 he exhausted the Cities; and the payment of them being exacted long after his
 death, very many of them were rendered Desolate without Inhabitants. *That*
Constantine having all these ways en damaged the Common-wealth, at length di-
 ed of Sickeness. And time it was.

26. Now, for *Justice* her fake, let us Pause a little; and to Consider of these grand Accusations, it will be convenient to Reflect upon the Condition and Qualifications of Accusers or Witnesses, and their Testimonies, so as to discover their Knowledge and Faithfulness, without which their Witnessings signifie nothing, but rather make for the Party accused. There are some Witnesses then that are called Certain, and others Uncertain. The certain Witness is he that was present, or saw the thing done; the uncertain, is he that only had it upon Hearsay; and as to this matter *Plantus* says well, that one of the former is worth ten of the latter fort. There are also indifferent Witnesses, and Witnesses Partial; either upon the account of Favour, or Enmity, or Malice. Partiality requires Abatement on both sides; but as all Laws have ever been more favourable to Charity than the contrary Extream, the Enemy-Witness is in equal disesteem with him that speaks for Gain, that's bribed to give a Testimony, is rejected as well as he; and for this Reason it is, that we know accused Persons to have the Privilege, in our own Country, to except against a considerable number of Persons of those that are Judges of Fact, and in the Power of whom it is, to accept or reject the Testimonies of such as shall but witness against them. We further know it to be the Duty of a Witness, and constantly given him in Charge, to speak the Whole Truth, as well as nothing but the Truth; especially it's behovefull, when the Reputation and Fame of a Person is call'd in Question. As the Commendation of a Friend, or the Accusation of an Enemy is not to be regarded much; so if they speak quite contrary, they are of Weight and Moment; of all others, that being the fairest Testimonial, which a known or professed Enemy makes. In the next place, if two Adversaries joyn in the Commendation; a third, who alone gives an ill Character of the same Person, must needs be esteemed partial, and if he make him Guilty of what they acquit him, he is in no case to be credited as to the rest; nay this would hold (it being a matter of dubious, and therefore of Charitable Construction) though there were but one that testified contrary to the other. In conclusion, a Witness that is convicted of Forgery or Contumely, is infamous, and barred of all Credit: for Witnesses, not Witnesses, are to be believed.

27. Now all these Rules, if to Witnesses in private Causes and Accusations, much more are Applicable to Historians; for History is by *Cicero* termed, the Wit-
nesses.

ness

An Answer to
Zosimus his
Calumnies.

Teflis Certus,
Incertus, vide
Calvisii Lexicon.
Pluris est Teflis
oculatus unus,
quam auritis
decem.
Teflis idoneus
Pater Filio, aut
Filius Patre
non est. L. 9. ff.
Teflis libi. 22.
Tit. 5. Et vide
l. 3. Cod. Tit.
Palchrum est
Teflimonium
quod ab Hosti-
bus petitur.
Jura dubio be-
nigniorum In-
terpretationem
sequi, non mi-
nus Justum est
quam tutum. l.
192. ff. de Re-
gulis Juris.
Hadrianus ju-
no Rufino Pro-
consuli Macedo-
niae rescriptis
Teflis libi, ff.
Teflimoniis cer-
dituram. l. 3. ff.
de Teflis, et
vide l. 3. Cod.
Tit. Vide Cal-
visii Lexicon
et V. Tefli.

Not the Tax
upon Harlots.

rima Negotiatorum, and Coronarium, of which the first is the same whereon we now Infist. This is affirmed by *Lampadius*, who lived in the days of *Constantine*, and dedicated to him the Life of that Emperor, so that he could not be the first that brought it up. But if we demand of *Zosimus*, at what time of his Reign *Constantine* imposed this Tax, he and *Leunclavius* his Apologizer, and such like, will tell us that it was after the Founding of *Constantinople*, toward the end of his Reign, when they talk so much of his Prodigality. But if we view the Laws made by him, and consider them well, we shall find in the middle of his Reign, ten years before the Building of that City, mention made of this very (4) Tax, as of a thing that had been in use of a long time; Money being then paid into the Publick Treasury by Merchants. So faithful is *Zosimus*, as to this Tax upon Merchants; and we shall find him full as worthy of Credit, as to that which concerneth Harlots. For amongst all those Extravagant Courses *Caligula* took to maintain his most lavish Expences, he raised a (4) Revenue both from Whores and Pandars, and that by a Law made for this purpose: and how scandalous soever, the Impostition, it seems, continued to the time of *Alexander Severus*, who forbade the Money to be paid into the Treasury, but assigned it to publick Works, as the Repairing the *Theatre*, the *Circus*, the *Amphitheatre*, and the *Atrarium*. Therefore was neither the one nor the other first Imposed by *Constantine*, who, if he had any hand in contriving any thing of the former, made it to be *Lastralis Collatio*, or to be paid in four years, whereas formerly it was annual, or paid at some other set and constant time. This new Cause might be more profitable for the Prince, who should receive a rounder sum together; and more easie for the Subject, who would have the Use and Improvement of his Money, the four years. Here was no Injustice. If the Collectors made it more burthenfome, it was their Fault, not his Design.

35. The Impostition upon Pandars was taken away afterward by *Theodosius* the younger, and that upon Strumpets, by *Augustinus*. Of all Authors that write about it, not one lays it upon *Constantine*, *Zosimus* excepted. And though in the Code of *Theodosius* so many Constitutions we find concerning the *Lastralis Collatio*, or Gold and Silver imposed upon Merchants, yet not one word concerning any laid upon this sort of Women; therefore we may safely enough conclude, that *Zosimus* believes him in making him the Author, either of the one or the other. If he continued, or by reason of his great need of Money, suffered this *Chrysargyron* still to be exacted, by *Leunclavius* his good Favour, he is not so much to be blamed, as if he first had imposed it. But this Calumny is so grose, that some Learned men would gladly seek for an Evation to acquit *Zosimus* of so much Malice and Falshood: instead of *Wencher*, it is thought *Work-men* should be read, the word that signifies the one kind being easily mistaken and false written for the other; such were Porters, Smiths and others, at this time lyable to the *Chrysargyron*, whom afterward *Valentinian* the elder discharged of the Burthen; or else the Historian, they think, was mistaken, and took the *Tabernarii Negotiatorii*, who were obnoxious to this Payment, for the *Tabernarii Meretrices*; according as the same Honest, good man, having heard or read that *Constantine's* Mother was a *Tabernaria*, very carefully and kindly wrote, that she was an Harlot; such Impartiality is there, and much more in our *Zosimus*. But upon further Examination, we cannot but find the Consequences of this terrible Oppression just as true, as the thing it self, viz. The Cries and Lamentations that were to be heard throughout every City; and when the fourth year came, the Stripes and Torments used towards the Bodies of those miserable People, who could not reach to the Payment of the Money; so that Mothers sold their Children, and Fathers prostituted their Daughters. If in *Constantine's* time any such thing hapned at *Constantinople*, which was a City as well as the rest, how could this cruel Exaction and Oppression of poor People consist with that great Care he took for them, even by *Zosimus* his Confession, that they should not want Bread? would he feed them because they were in want, with one hand, and beat them because they were in want, with the other hand? Give them Bread to supply their Necessities, and put them to Torture, because they were necessitous, and had neither Money to buy Bread nor pay him his Tax? He must have been a pretty humorous Prince at this rate, or *Zosimus* pretty confident to dare thus to impose upon Posterity, and think all Fools that should come after him: for this Allowance of Bread was both given to the Old *Rome*, and the New; and not to every City; his Revenue would not afford it. But though he could not supply all Poor with Bread, he took especial Care, that neither Poor nor Rich should be Imprisoned or Tortured for what was owing to the Treasury, declaring, that a Prison was for Malefactors, and such as deserved Punishment, not for them that

He tortured
not his Sub-
jects.

A. D.

337.

(4) L. L. 2. 4.

Ced. Theod. 4.

Petranti, 4.

Vici Comen.

Gulphred, in

L. 1. de Infra-

L. Collatione,

ced. Ced. lib. 13.

Tit. 1.

(5) Ex Corpore

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

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tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Señ. 1. In case any abused this his Clemency, then indeed he ordains they be kept by a "Guard in strict Custody; and if they persevere in their Disobedience, that then their Neighbours shall make distress; professing in to be his Judgment, that then mild way is the best to procure the Payment of the publick Money. In general, by another Law he commands that all Exactions be made without Concussion or severe Disturbance of the Debtors to the Publick, under great Penalties to be inflicted upon the Exactors.

36. The poor then were not by any Contrivance of his, Beaten or Imprisoned, and much less were they forced to sell their Children, or to prostitute their Daughters. So far was he from forcing them to any such thing, that whereas before, and in his time, in Italy and other places, it was too ordinary for Parents, when Poor in their Necessities, to Kill, Expose, Sell and Pawn their Children, by an Edict (which being written so as to remain most Durable, he commands to be made public in all Cities of Italy) "for prevention (as he saith) of that Parricide; he orders *Abavius*, the Vicar of the *Præfatus Pretorio*, to take care for the Maintenance of such Children as should be brought to him by Parents under that Qualification; and to the Expende assigns indifferently both his Publick Treasury, and his own private Estate. Forasmuch (so he notes) as the Education of Infancy is a part of no Delay. Taking notice afterward of the practice of Parents in Africa, who by reason of Want did sell, and pawn their Children; by another Edict directed to *Menander*, the *Præfatus Pretorio*, he commands, that such as have no Estate, and hardly and difficultly maintain their Children, be relieved by the Treasury, before they be driven to such Necessity. To this end he empowers all *Proconsuls*, *Præfatus* & *Rationales*, throughout that Province, to give maintenance to all that were in such Distress, and Provisions out of the publick Granaries; concluding, that it was utterly contrary to his Inclinations or Manners to suffer any to perish with Famine, or proceed to so horrid a Fate. The next thing *Zosimus* mentions, amounts to this: that having in so great a Compass as the Roman Empire, many Persons Richer and more able to bear Offices than others, who ordinarily were forced to undergo them; he constrained them to discharge these Offices; or else, where he perceived it might be spared, there he exacted Money for defraying of the publick charge, as at this day the City of London is wont to do. And an horrid thing that is which follows, that he would have the greatest Persons, as well as those of inferior Condition (for perhaps they were as able to contribute toward the publick Expence. Besides, he tells us, that he was so truly prudent, as a Prince, and so well skill'd in his Trade, as there were none of his greatest Officers, but He understood their Estates; at least all their Lands (such might be known) he kept registred in his Books; and upon them he laid a Tax called *Follis*, which was not oppressing, or difficult to be paid. For having largely courted Senators (upon whom this Tax chiefly lay) and by building Houses for them, encouraged them to inhabit his new City: it's not to be imagined, that by any great Exactions he would deter them from continuing and discharging their Trust; which was with one hand to build, and with another to pull down; as in other Matters *Zosimus* forceth him to Act. But if we consider our Author well, he dares not say, that in *Constantine's* time any Mischief succeeded upon this Impostition; but that this continuing long after his Reign, the Riches of Cities were by Degrees exhausted, and very many were left without Inhabitants. Now we have known a thing prudently instituted, which coming through ill hands hath been diverted from it's first and innocent Design.

37. But whatever the thing in it's own Nature speaks, *Zosimus* his Design was to render *Constantine* odious; as we know it to be the Practice in all Reformation, of those who are added to the old way, to render infamous such as have been Instruments in the Alteration; and by a prejudice raised against the Persons most ridiculously to innuinate an ill Opinion of the Cause, or Thing it self. Although the Reader may by what he has already seen and read, be sufficiently satisfied as to this matter, yet is there one Remark still remaining, which so much throws the honour of the Man, that it will be for the Reader's Diversion to mention it. He tells us he often wondered how it came to pass that the City of *Byzantium*, being grown to that extraordinary height, so that no other, either in respect of Felicity or Greatness could be compared to it, yet this should by no Prophecy be foreknown to their Ancestors. Meditating much about so weighty a Business (you must know) and turning over many Histories and Collections of Oracles, after some time of Doubting, with much adoe he light upon a certain Oracle of *Sibylla Erythraea*, or *Phaella of Epirus*, which Woman possessed by a

Other Object
one of Testimon
frivolous.

L. 1. de Infra-

L. Collatione,

Ced. Theod.

Vici Comen.

Gulphred, in

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Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

Quasi Parala-

tum dicitur

[illegible]

great

39. But, though *Zofimus* maliciously charges him for thus Innovating in the Government, and Introducing new Officers, which tended to the Ruin of the Empire, yet must it be said, that in and about his time there, was made a considerable Change in the Politie thereof. And now being arrived, at this Distance, from the Monarchy of *Augustus*, though the Sovereign Power was still the same, we find a new Face of Subordinate Government, each Prince himself Contributed to it, as either Convenience directed, or his own Will and Pleasure inclined him. Therefore judge we it requisite to the Nature of our present Design, to give the Reader a Prospect of the whole Politie, such as it was in or about this time of *Constantine*. For amongst the manifold Advantages he reaps by the knowledge of Antient Times, that of the Nature of Governments, with the Power of Magistrates, is one of the greatest; and without this, he will not be able to understand and make use of the following History, with near so much Benefit and Improvement.

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Part I, B. 2

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whom they that were *Patricii* being so intimate, as to have the Reputation of a Parents, he would have none obtain this Honour, but such as had passed through the highest Employments; For the contrary, besides other Testimonies, is most evident from *Calpurnius*, who was contemporary with *Zeno* himself.

9. Thus great was the *Consulship*; but after all, it's Greatness consisted in Noise, in Name, in Place and Cloaths, so that in *Calpurnius* his *Formula* it may very well be termed *Fidgirs*; it's Lustre lay more in the Feet than the Hands or Head, for which Members there was very little occasion: The great and weighty Burthen sustained by the *Consul's* vast Shoulders was the Gown and coloured Robe he wore; little Employment for his Eyes, but to behold with Contentment the twelve *Lictors* going before him, and bearing the *Fasces* and Axes very gracefully; especially since of late Laurel was added to them, which commonly was used only in Triumphs: For his Hands, but to carry Majestically the Ivory Rod: For his Head, but to consider how best to fill and become his *Curule* Chair, and to have his Robes and Ornaments fit well upon him. The Emperours since the Monarchy, by assuming both his Power and that of all other Magistrates in a manner, had permitted him to take his Ease. Instead of Commanding Armies, and having the great Management of Affairs, both at home, and in the Provinces, how do we find him now spending his time? Even at home in his own House, entertaining himself and his Friends, except he would please to go in State and shew himself in the *Senate-House*. Only you might fee him buised a little (especially at his first Promotion) in (a) Manumissions, or setting Slaves at Liberty, a Privilege still indulged him, and that as it was his Solemnity and peculiar Employment: perhaps in exhibiting the publick Games and *Speſtacula*; and then as a Reward of his (b) Merits, it was lawful to present him, and him alone with Gold; and Reason too, considering that he found the Horſes in the *Curule* Races. Very little more do we find the *Consuls* did at this time, scarcely so much as to fit as Judges, and decide Causes, assign Tutors, or to let out the Customes and publick Revenues; which though they might do under (c) former Emperours, yet we shall now find in other hands. And whereas formerly they presided and regulated the Proceedings in the *Senate*, now that *Woom* seems to be dishgraced by the *Presets* of the City, who was at this time the *Præful*, or Head of that Body. Though considering what manner of man formerly the Consul was, and as his Vicegeant, out of good Manners he might give him Place. In Conclusion: however for the Ceremony and Pageantry of the Empire, the *Consul* was still preſerv'd in Being, yet by Degrees he dwindled to nothing, and about *Justinian*'s time ceas'd to be; so little Notice was taken of him in the Reign of *Theodosius* the Younger, that when the *Notitia*, or Survey of all the Dignities, as well Civil as Military was compos'd, he was not so much as mentioned therein; having nothing of Buſines or Employment worth the mentioning. As for the *Honorary Consul*; he was also in Being in the time of *Zeno*, as appears from the (d) Law of that Prince, but now mentioned; and was bound for his Honour to give an hundred Pounds of Gold toward the Repairing of the *Aquæduſt* of the City, as the Annual, or ordinary *Consul*, by the next preceding Law of *Valentinian* was bound to do, instead of the Largeſſes they formerly (to no purpose) gave to the People. Amongst the Tomes of *Calpurnius* there is extant a Charter besides that of a *Consul*, for creating a *Consularis*, whose Office is not termed *Consulatus*, but *Consularis*. This *Lysius* concludes to have succeeded in the room of the *Suffeſus* or extraordinary, introduced by *Julius Cæſar*, and must have been merely Titular, or Honorary; but enough of the *Consul* little more than a Name; now we come to both Name and Thing.

10. The chief Magistrate and Minister of the State, and which had the first Place amongst the *Illustres* (next to the *Patrician*, who was no Magistrate as such) was the *Præſeſ* *Prætorio*. He took his first Denomination from the *Prætor*: for all Magistrates (as we have already (e) shewn) especially Military, were called *Prætores*; and the General's Tent, or Pavilion, *Prætorium*; as also the Guard that watch'd before it, *Prætoria Cohors*; and the Admiral's Ship *Prætoria Navis*; hence he that had the Charge of the *Prætorium*, or lodging of the Prince, and commanding the *Prætorian* Bands that guarded it, was named *Præſeſ* *Prætorio*. The *Prætorian* Soldiers had first their Pay augmented by *Scipio Africanus*, who gave them half (f) as much more as others receiv'd; but *Augustus* by virtue of a *Senatusconsultum*, ordered them double Pay, and five hundred *Drachms* after they had served fifteen Years. Their number was ten thousand, divided into ten Companies or *Cohorts*, under so many *Tribunes*. They were Men of more than ordinary Stature, and distinguished by better Arms and Habit from the ordinary Soldiers. These were

Secl. 2. afterward succeeded by three thousand and five hundred of the most choice *Armenians*, divided into nine *Scholes* (as they termed them) or Parties. Over them the *Præfæti Prætorio* had absolute Command, and by his Advice the Prince managed all his Matters: for he was that to him which to *Romulus* was the *Tribunus Celerum*, the *Legatus*, the *Quæstor*, to the *Prætor*; and the *Magister Equitum* to the *Dictator*. They obtained by degrees full Authority, that not only had they the Administration of Arms and War, but receiv'd Appeals, and handled all Affairs of the Empire.

11. *Augustus* being Author of this Magistracy created first one, and afterward two *Præfæti Prætorio*, according to *Mecenas* his Model; that if need were the one might withstand the Traiterous Designs and Attempts of the other; and they were to be of *Equestrian* Rank; but *Tiberius* gave the whole Command to *Sextus*, who persuaded him to unite the *Prætorian* Soldiers, formerly quartered up and down the City, in one Camp; that they might be weaned from the Luxury of the Place, be reader upon all Occasions, and by their Union in one Body strike the greater Awe into the People. Hereby this Office, moderate before, received great Advantage. In the Camp the *Præfæti*, at first, handled no Causes; but only took Care of what concern'd War; for *Augustus* committed Appeals in Law-Suits of Citizens, to the *Prætor* of the City, and of such as lived in the Provinces, to Persons of *Consular* Dignity; of which Rank he set one over the Affairs of each Province. Now ordered Appeals to be made from Judges to the *Senatus*. *Adrian* was wont, when he took Cognizance of any Process, to call to him both *Senators* and *Equites*; and according to the Result of their Debate, gave Sentence, no more being made of the *Præfæti*. *Marcus Antoninus* was the first that used their Advice and Authority in Law-Matters. *Commodus* then, that he might more freely follow his Pleasures, committed the Care and Management of all to *Perennis*, his *Præfæti*; and so by Degrees Judgments and Appeals were translated to them. Some Princes, following the Example of *Augustus*, made two *Præfæti Prætorio*. (a) *Commodus* had as many after the Death of *Perennis*, and sometimes three, finding it necessary to lessen so great a Power by putting it into more hands. When the *Barbarians* made so frequent Incursions, succeeding Princes assigned *Præfæti* to certain Regions. For under *Docius*, *Vacrus* was *Præfæti* Prætorio of the East; under *Valerian*, 2. *Vicarius* and *Ragonius Clarus*, of *Illyricum* and *Gall*; but these were not certain, nor perpetual, but according to the Necessity of the Times, and the State of War, receiv'd and exercised their Power. And the Power of the ordinary *Præfæti* (the common number whereof towards *Constantine's* time was two, as it seems from *Zosimus*) was exceeding great; even so great that (b) (as one well observes) through the Negligence of some Princes, they made, and might be made Emperours, as they pleased. For having Authority, both over Military men, and in all things Civil, they obliged and consequently, had all sorts of Persons at their Devotion; the *Præfæti* was esteemed a sort of Prince, without Purple; in this Respect only to differ from the Emperour himself.

12. *Constantine* therefore had reason to be jealous of their extravagant Power, and to correct so great an Error in Police, as the former Princes had committed. This he did by taking away their Authority in Military Matters, which he transferred upon his *Magistri Militum*, and by continuing the number of four, as he found them under the four Princes that preceded him, whereof each (as he said) had his *Præfæti*. Notwithstanding this, they ever retained great Authority. They published their Edicts, which were perpetually to be observ'd, except the Prince repealed them. They commanded the Governours and Judges of such Provinces as were under their Care; punished them, if faulty; removed them, if unfit; paid them their Salaries due out of the publick Treasury, and received Appeals made from them; but from the *Præfæti* lay no Appeal. Some things the Judges of the Provinces could not do without their Order; and (c) *Calliodorus* (who in his *For-gestus* mule describes their Office) hints something, as if afterward they received Authority over Soldiers also in part, and had Power of fining, as far as the Sum of fifty Pounds of Gold. They had the Charge of the *Annona*, or Provisions for the Army; took Care of the Ways, and of the Tents. The chief Management of the Revenue was in them; and in the collecting and exacting thereof, this Countie was afterward observed, which is prescribed by (d) *Justinian*. The Prince having consulted and signified how much Money, or what Supply he should want for the follow-

Inf. Authoritatem præfæti, excepto officiali Magistri Militum. Credo & non illis aliquam Antiquitatem cedere, qui videntur pro Reip. velle tractare. (e) Novell. 1281. quam Consiliis omnino de modo Collectionis.

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Secl. 2. ing Year, the *Præfæti Prætorio* made the Distribution thereof in the Month of *July*, or *August*, according to the Value and Wealth of the several Provinces, and in their several Offices or Courts it was Registered, what Proportion each Country or City should pay, either in *Specie*, or in Gold; and of this how much was to be brought into the Treasury, and how much expended in the Province. An equal Cæd being thus made, Copies were sent from the Offices of the *Præfæti* to the Governours of the Provinces, at the beginning of every *Indiction*, and by them published in the Cities under their Authority, within the Months of *September* and *October*, in which the *Indiction* or Impositions of Taxes ordinarily began. In case they observed not the Rule præfæti'd, they made good to the publick so much as it was thereby endangered. Now the Burthens of the Subject, or *Provincials* were, either ordinary, or extraordinary; and usually they upon whom the former sort lay any thing heavy, were excused from the latter: usually, I say, but not always; when by Reason of a great War, or for other Reasons the Emperours were at exceeding great Expence, as is evident from the Laws.

13. One constant Charge consisted in Tribute, properly so called; another in payment of Cloths, or Gold and Silver. By Tribute the Laws men the several sorts of the *Annona*, as Corn, Wine, Oyle, Fodder, and the like, such as we may term *Efulenta* and *Poculenta*, which are also called *Fiscate Debitum*, and sometimes might be redeem'd by Money. This being an Annual payment, the *Præfæti* had the Charge thereof, and took Care, that the several things should be disposed in their peculiar Storehouses, to be reserv'd for the Maintenance of the Army, or other Uses. For it's easie to observe in several Ages and Countries, that Tributes and Rents were formerly wont to be paid in kind; and here in *England*, amongst the Princes have heaped up great Treasures of Corn, so others vast Quantities of Provisions. (a) *Melithæus* the *Præfæti Prætorio*, and Father in Law of the Emperour *Gordian*, was so indutious for his Matter this way, that in the greater Cities up on the Borders, he caused to be laid up so much Wheat, Vinegar, Barley, Lard, and Straw, as would maintain the Army an whole year; and in the lesser, Provisions of this kind for forty, thirty, and at least fifteen days, but in some of them for two Months. (b) *Severus* when he died, left such a stock of Corn, that for seven years together, every day seventy five thousand *Modii* might be spent, and so much Oyl as was sufficient for the space of five Years, both to serve the City, and all Italy. *Trajan* also took Care, that there should always be a Stock of Corn in *Rome* to serve, if need were, for eight years. Now for this supply several Provinces of Course contribute several Things. The *Leptiani* in *Mauritania* furnished Oyl, the *Galls* Horfes, and the *Spaniards* also, especially they of *Betice*, of which in those times they had an excellent Breed, besides Cloths, Oyl, Fat and Lard. In Italy the *Lucani* found Hogs, and the *Bruttii* Oxen; the *Sicilians*, as *Panciculus* ob- serves, paid the tenth part of their Wheat, which amounted yearly to eight hundred thousand *Modii*, and if need was, were bound to add another tenth, for which they receiv'd Satisfaction out of the Treasury; as also a fourth, if Necessity urged; for *Sicily* of old was esteemed the Granary of *Rome*, till such time as *Egypt* was subdued, which in after times paid the fifth part of their Fruits, for which *Constantinople* receiv'd eight Millions of *Medimni* of Wheat yearly: but yet what here is said concerning such Nations and People their furnishing such and such particular things, hath rather Relation to the beginning of the Empire; for as appears by *Theodosius* his Code, the Princes that succeeded *Constantine* much regulated and altered these Payments, whereof some were ordinary, and some extraordinary, as of the Occasions and Wants of the State were urgent.

14. However, they were all under the Care and Management of the *Præfæti*, who also had the Charge of receiving Cloths for Souldiers; the manner of furnishing which, was various in the several Countries; but generally one was Exacted for every twenty or thirty Acres, or sometimes according to the Poll; or else Gold in the room of it. Besides these, they not only look'd to the Collection of the Extraordinary Impositions (as we said) as also of Tolls, Impots, and other things too tedious here to relate, but could impose Extraordinary Charges and Services in some Cases; and the *Novenarii*, or those who Transported the Provisions, were by them Governed. They granted leave to make use of the *Cursus Publicus*, which none of the Greater Officers, except the *Magistri Officiorum*, could do. At their Creation, the Prince of old Girded them with a Sword, as the Ensign of their Office. At their first Institution they could not be *Senators*, being only of the *Equestrian* Rank, lest they should grow too Great. *Alexander*, the Emperour, first

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Sect. 2. first added that Dignity, left *Senators* should be judged by those that were below their Orders; and so they came to be styled *Clarissimi*, and afterwards *Illustres*. They rode in Gilded Chariots, drawn by four Horses, accompanied with the shouts of the Public Cryers, and Lucky Acclamations of the People, who styled them Fathers of the Empire, and Exhorted them to demonstrate themselves really such. The Princes honoured them also with the Title of *Fathers*, as with those of *Magnitudo, Culmen, Amplundo, Præcelsa Magnificentia, Celsitudo, Excellentia, Sublimitas*, and the like, beginning their Letters, *Fave Hypate Charissime nobis*, and concluding, *Divinitas te servet per multos annos Incoluunt, Parens Charissime*. Answerably, their Seat was called *Sublimissimus* and *Excelsa*. Their Privileges were great, and their Stipends large; for *Justinian* allowed the *Præfess* of *Africk* an hundred pounds of Gold yearly, which some compute to have been about nine thousand Sterling. These things abundantly are Evident from the various Constitutions of Princes. And thus much in general of their *Præfess* Prætorio.

15. In particular, He of the East was most Eminent, both for number of Provinces, and Authority. Now we must know, that the District of every *Præfess* Prætorio ordinarily included several *Dioceses*, and each *Diocesis* several Provinces. We say, Ordinarily; for several (a) Examples Convince us, that sometimes a *Præfess* had but one *Diocesis*, which was no other than an (b) Union or Collection of several Provinces under one Administration, or Government. But the *Præfess* of the East had under him (c) five *Dioceses*, viz. that of the *East*, strictly so called, *Ægypt*, *Asia*, *Pontus*, and *Thrace*. Over which, as his Deputies, were set for many of the Greater Provincial Officers. Of these, the *Comes* of the East Commanded fifteen Provinces; the *Præfess* of *Ægypt* six, the *Vicar* of *Asia* eleven, the *Proconsul* of *Asia* other three, the *Vicar* of *Pontica* eleven, and of *Thracia* six; all which made up eight and forty Provinces, as in the *Notitia* of the Empire is expressed. Under his (d) Command were the several Fleets of the *East*, which (as in the other Parts of the Empire) served for conveying Provisions for Defence of the Borders, and clearing of the Seas and greater Rivers of Pirates, and by some are reckoned eleven in number. Amongst these were Eminent that called *Classis Seleucia*, Instituted (as some think) by *Constantine*, after he had fixed his Seat at *Antioch*, and with great Charge had made an Haven on the Shore of the *Syrian* Sea, called *Portus Seleucenus*; though others think it the same with that of *Seleucia*, in the River *Orontes*. There was one also in the *Euxine* Sea, consisting of forty Vessels: a Third was ordered by *Trajan* in the Red Sea: a Fourth belonged to *Alexandria*: a Fifth Cruised on the *Carpathian* Sea. The *Notitia* reckons up six more in *Danubius*, besides one belonging to those that served in the Treasury, or the *Thesaurenses*. This *Præfess* was Resident at Court in the time of *Justinian*; or *Constantine*, being within his District. Of his Arms, or the Ensigns of his Authority, the *Notitia* makes not mention; but doubtless they were near the same with those belonging to the *Præfess* of *Illyricum*, viz. a Book of Mandates erected on a Table covered with a Carpet, betwixt four burning Wax-lights; on one side the Images of the Princes (which they as well as other Civil Magistrates of Provinces, but not Military, had born before them) and on the other side, of five Women holding Vessels full of Gold, and representing his five *Dioceses*.

16. The second *Præfess* Prætorio mentioned in the *Notitia*, was he of *Illyricum*, placed by *Constantine* in the Northern Parts. In Ancient Times, all the Tract reaching from *Danubius* to *Italy*, and now called *Scalavonia*, was taken for *Illyricum*. (g) *Zonaras* writes, that the name of *Illyricum* being formerly given to various Places, became afterwards peculiar to the upper Continent above *Macedonia* and *Thrace*, or *Constantinople* being within his District. Of his Arms, or the Ensigns of his Authority, the *Notitia* makes not mention; but doubtless they were near the same with those belonging to the *Præfess* of *Illyricum*, viz. a Book of Mandates erected on a Table covered with a Carpet, betwixt four burning Wax-lights; on one side the Images of the Princes (which they as well as other Civil Magistrates of Provinces, but not Military, had born before them) and on the other side, of five Women holding Vessels full of Gold, and representing his five *Dioceses*.

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Sect. 2. 17. Each of the *Dioceses* under the *Præfess* Prætorio was Governed by its *Vicar*. He of *Macedonia* Ruled these six Provinces, *Achaia, Macedonia, Crete, Thessaly, old Epirus, new Epirus*, with part of *Macedonia Salutaris*. Under the *Vicar* of *Dacia* were, *Dacia Mediterranea* and *Dacia Ripensis*, *Mesía Prima, Dardania Prævalitana*, and part of *Macedonia Salutaris*, divided betwixt him and his Brother *Vicar*. These two halves put together, make up twelve Provinces, which being added to the Provinces of the East, fill up the number of sixty Provinces of the Eastern Empire. The Seat of this *Præfess* was first at *Sirmium*; but when *Attila*, the Goth had miserably wasted *Illyricum*, *Penninus*, or rather *Ærius* the *Præfess*, removed to *Thessalonica*, a City of *Mydonia* (which was part of *Macedonia*, betwixt the Rivers *Eihedon* and *Dabrivus*, not far from the Sea, formerly called *Habis*, and built say some by *Cassander*, say others by *Philip* of *Macedon*. Upon this account many Privileges were conferred on the Church of *Thessalonica*. Afterward *Justinian* having overcome the *Slavii*, and recovered both the *Dacia's* and *Pannonia*, made the Town where he himself was born *Metropolis*, enlarging and adorning it with Walls, Buildings and great Immunities. Some say this was *Scalavonia*, a City of *Dalmatia*, near to *Dacia* and the second *Pannonia*: some will have it *Bederina*, others *Acrido*, and some none of them all; but of this Matter we shall discourse in another Place: but he called it *Justiniana Prima*, having founded another City, not far from it, which he also called by his own Name. The Chief Ensign of this *Præfess* was an Iron-Chariot gilded, drawn by four Horses. To this were added the Images of the Princes, and one Table covered with a white Cloth, with golden Fringe, betwixt four Lights, the Emperours Picture upon a Book of Mandates; wherein were supposed to be contain'd the Duty and Office of the *Præfess*, and wont to be presented to them by the Emperor. And lastly, are to be seen two Women representing the two *Dioceses*, *Macedonia* and *Dacia*, having their Heads crown'd, and Baskets in their Hands full of Gold. These Ensigns are mentioned, or stamped in the *Notitia*, as peculiar to the *Præfess*, not but that they used also such as belonged of old to the *Roman* chieftest Magistrates: for they had the *Fasces* with gilt Axes carried before them, as had also the *Pretors*; the *Trabea*, or Robe embroydered with Gold and Purple, the Ivory Rod; they had a golden Collar about their Necks, and were girt with a Purple Girdle.

18. The third *Præfess* Prætorio was he of *Italy*, who (as *Zosimus* writes) had under his Jurisdiction, both that Country, and *Africk*, together with the Islands of *Sicily*, *Sardinia* and *Corfica*. But we find, that in the Reign of *Julian*, *Mamertinus* was *Præfess* of *Italy*, *Africk*, and also *Illyricum*; therefore some contend, that the last in those times had not constantly it's *Præfess*, but the Empire being divided after *Valentinian*, and *Valens*, the *Præfess* of *Italy* had only of *Illyricum* the Western part. This *Præfess*, as he of the East at *Constantinople*, lived at Court, and therefore both these were termed *Præfess* Prætorio Comitatus. In the Code of *Justinian* no mention is made of him, nor of the *Præfess* of *Gall*; but only of him of the East, and of *Eastern Illyricum*, because then the Empire had failed in the West. *Africk* being recovered from the *Vandals* by his Arms, he made a *Præfess* of his new Conquests, and to it joyn'd *Sardinia*. But though he also recovered *Italy*, yet it doth not appear, that he reformed it's *Præfess* also, it being Governed by *Narges*, the *Eunuch*, of whose Magistracy no Title appears in our Law-Books; and for such Governours as succeeded him in such parts of *Italy*, as continued under the Empire in following times, they had the Title of *Exarchs* of *Ravenna*, whereas that of *Eparch* was proper for the *Præfess*; but to return to the times whereof we write, and the Age wherein the *Notitia* of the Empire was compiled. The *Præfess* Prætorio of *Italy* had in his District three *Dioceses*, *Italy* it self, *Illyricum* (the Western) and *Africk*. That of *Italy* contained seventeen Provinces, that of *Illyricum* six, and that of *Africk* seven, as in the *Notitia* they are expressed, which we do not here set down, lest we perplex the Reader's Memory with too many Names.

19. To the fourth *Præfess* Prætorio was, as *Zosimus* informs us, committed the *Celte*, or *Galls* beyond the Alps, together with *Spain*, and the *British* Islands. Though he governed several Countries, yet because *Gall* was Richer, and nearer to *Italy* he took his Denomination from it, and was called *Præfess* Prætorio *Galliarum*, in the plural Number. He had three *Dioceses* in these Countries now mentioned; *Gall*, *Spain* and *Britain*, which under so many *Vicars* contained twenty nine Provinces, viz. *Spain* seven, *Gall* seventeen, and *Britain* five, whereof the Names were *Maxima Cæsariensis*, *Valentia*, *Britannia Prima*, *Britannia Secunda*, and *Flavia Cæsariensis*, of which hereafter. But long it was not ere all these three

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Sec. 2. Dioceses were overrun and possessed by Barbarians, and the *Præfēt* failed. Therefore in the *Notitia* he hath no Ensigns mentioned, only his Dioceses and Provinces; and his Officers, the same with those of the *Præfēt of Italy*; and probable it is, that *Mutatis Mutandis*, his Ensigns were the same; so that it might seem superfluous to mention them. As for *Justinian*, he neither mentions any Officers of those Provinces, because in his time they owned not the *Roman Empire*. And thus much of the *Præfēts* themselves. Something must be added of their Officers, that this Polity, not observed hitherto by many Historians, may more fully appear.

20. First then it must be known, that all Magistrates of Provinces, and especially the *Præfēts*, had one or more Lawyers to assist them, whom they termed *Affessores*, and *Consiliarii*. By their Council and Advice they Decided Causes; as also, to take care of such Edicts as were to be framed, or of Letters to be written, and to Interpret Decrees according to Law. They heard Criminal Causes, but left Judgment or Sentence to be passed by the *Præfēts*, to whom they gave Directions therein; and what could not be by the *Præfēts*, otherwise employed, was Dispatched by them. Of other Officers, which attended the *Præfēts*, no certain number can be Assigned. *Justinian* ordained, that the Retinue of the *Præfēt of Africa* should consist of three hundred ninety and eight Persons; but those of other Places were doubtless more Numerous; whereas the *Comes of the East* had belonging to him, as such, six hundred Men. The Body of their Officers is in the Laws termed *Officium* and *Apparitus*, the Officers themselves *Officiales*, *Apparitores*, *Cohortales*, because they had the Form, and Privileges of a *Cohort*: (and *Pancirolos* thinks, that that *Cohort* or Band, which by the *Evangelists* is said to have been gathered together at our Saviour's Passion, was of this nature.) *Beneficiarii*, because promoted by the *Beneficium*, or kindness of the *Tribune*, to some Office or Employment; and *Scriminarii*, because they kept the Papers which concern'd themselves, in Desks or Coffers. These Officers, both of the *Præfēts*, and other Illustrious Magistrates, as also those that had the Title of *Spētabiles*, were made such by the Prince his Codicils, or Letters. Every *Christmas* day there was a Promotion of them to be *Cornicularii*, or *Commentarienses*, as they had deserved. Their Work was to Execute the Commands of the *Præfēts*, Introduce such as had Suits, make Records, and read them; enter Judgments and Execute them, and do other things Requisite, as in Courts of Judicature. They were sent to Administer Oaths to such as were sick, or Noble Persons. They went before the *Præfēts*, as *Litōrs* before them and other Magistrates; took care of the publick Posts; gathered Tributes; hunted out High-way-men, discovered to them by the *Stationary* Souldiers; who, by the Ordinance of *Augustus*, were appointed to lye in wait for Robbers. They had large Fees, besides Provisions allowed them out of the Provinces; and these lay about the Houses of the *Præfēts*. There were others that liv'd with them, and were call'd *Domesticks*; whereof there were some that were call'd *Chancellors*; who wrote Letters from them (as from the *Presidents*) to Private men; and so named, as appeareth from *Cassiodorus*, because they sat within *Cancelli*, or Lattices, through which might be seen what they did.

21. But the *Notitia* reckons up in the Office of the *Præfētus Prætorio*, these by Name, viz. the *Princeps*, *Cornicularius*, *Adjutor*, *Commentariensis*, *Abactis*, four *Numerarii*, *Subadivus*, *Curator Epistolarum*, *Reverendarius*, *Exceptores*, *Adjutores*, & *Singularii*; whereof most are frequently mention'd in Law-books. The First was Principal of the Office, directing and commanding the rest of the Officials, without whose Order nothing could be done; being herein like the *Princeps*, or Principal of the first *Cohort*. He had, besides other Clerks in his own Office, a Domestic *Chancellor*, who wrote his most secret business; and, besides other Honours, had the Title of *Clarissimus*. The next to him was the *Cornicularius*, whom *Acerfius* takes only for a simple *Pretorian Apparitor*; *Alciat*, for a Minister of the Principal; but *Pancirolos*, according to the *Notitia* and the Laws, for one of the Chief of the Office; and thinks him to have been the Writer and Publisher of the Commands, Judgments, and Decrees of the *Præfēt*, or the *President*. Sometimes he is called *Chancellor*, but ordinarily *Cornicularius*, which Name is Ancient, being given to the *Scribe of the Tribuni Plebis* of old, and seems taken from an Horn, which he might use as the Ensign of his Employment, or by it to command Silence in the Court. They were present, as appeareth from the Acts of Martyrs, at the Examination of Criminals, and took charge of such as were Condemned. It's thought they Com-

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Vide Panciroli ad Affessores ad Notitiam et Orin. l. imp. l. 2. et Gauthier ad l. supra, tit. 2.

Sec. 2. manded the *Præcones*, or Publick Criers. They continued in their Office but one year, until *Christmas*. They were Rewarded with the Dignity of *Comes*, and Immunity from Extraordinary Charges. They, as the other Apparitors of the *Præfētus Prætorio*, had their peculiar *Scrinia*, or Offices, wherein several Clerks wrote, and kept the Commands, Judgments, and Decrees of the Judges. In the Office of the *Cornicularius* belonging to the *Præfētus Prætorio of Africa*, wrote ten Clerks, to whom were allowed Provisions from the Publick.

22. The *Adjutor* supplied the Places of others, and Assisted them, being by the Emperor *Gratian* termed the Adjutant of the Office, or Company. He was also called *Optio*, from the *Optiones* of the *Legions*, so Named from the Wilhes of such as being sick and weak, unable to Discharge their Office, desired their Help and Assistance: He most commonly Apprehended Delinquents, and Committed them to Prison; Tortured them to make them Confess, and perhaps had charge of the Execution. It's thought the *Speculator* was under him, such an one as Beheaded St. *John Baptist*, whom we Translate an Executioner. He also had his particular Office, wherein, under the *Præfēt of Africa*, ten men wrote the Names, Conditions, and Ends of Delinquents. But, to avoid Confusion, we must take notice, that sometimes by *Adjutores* are meant Ministers of the *Questor*, taken out of several Offices. Next to the *Adjutor* the *Commentariensis* is mention'd in the *Notitia*, and had charge of Prisons. He allowed Prisoners, if poor, out of the publick Provisions, two or three *Libellæ* a day, whereof one was the tenth part of a *Denarius* in Value. He took care that Men and Women were not put together; and every thirty days was to give an account of the number of Prisoners, their Crimes and Age to the *Præfēt*, or Judge, that they might not be Ruined in Prison. He had under him several Inferior Officers called *Stratores*. He entered the Cates of Delinquents, and their Bail; and from Digesting these things into Memorials or *Commentaries* had the Name; for a *Commentary* is a Book, wherein summarily Matters are Described, as by Heads. Sometimes they Tortured Criminals, themselves, and so took care of their Execution, bidding the *Speculators* Execute the Sentence of the Judges. The *Commentariensis* had a peculiar Adjutant or Deputy, who in his Absence supplied his Place. In his Office wrote twelve Clerks, allowed him at the Publick Charge.

23. But the most Important Officer in the whole Office of the *Præfētus Prætorio*, or other Magistrates, was the *Advary*, called *Advarius*, and *Abactis*. He Recorded Contracts, and other Matters before the Judge, Faith thereof being publicly made: so that without further Examination or Scrutiny, Credit was given to this Record; so, as at this day, to the Acts of Publick Notaries. In making their *Acta* or *Records*, this was the Form. It was necessary to write down the name of the Contractor, Witnesses, or the like: the Time, and the whole Contract of Business was to be Describ'd in Order: All this was to be done, at the least, before a Judge; at *Constantinople*, before the Master of the *Consus*; in the Provinces, before the *Presidents*, or *Municipal Magistrates*: for the *Præfētus Prætorio*, the *Presidents* and their *Advaries* being not able to dispatch all Business, nor such at *Asis* *Abis* as were at a great distance to attend them; Power of making these Publick Acts was given to the *Duumviri*, and Governours of Cities. To enter them, or read them, was a Crime, no less than High Treason, because they were of such Importance. By reason of multitude of Matters coming before them, they had Assistants. In their particular Offices they had ten men maintain'd at the Publick provision Charge. Now again, to avoid Confusion, take notice, that sometimes an *Advary* (as in *Suetonius* and *Seneca*) signifies one that took and noted what was said and Dictated in general; sometimes one that wrote down the names of Souldiers, what Pay, and what Reward was due to them; but these belong not to our present Cognissance.

24. Next in the *Notitia* follow the *Numerarii*, who were four in number, in the *Præfētus* Office. In the Provinces there were two called *Tabularii*, whereof one took Account of Estates, Goods or Money, which by Forfeiture or Succession fell to the Treasury, or to the Chest of the *Comes Rerum Privataram*; another of such Tributes as belonged to the *Largitiones*, or publick Expenses: for the Emperours had two Chefts, or Receipts, over which were set so many *Comites Iustres*, viz. the *Comes Largitionum*, and *Comes Rerum Privataram*. To the Expence of the former were Assigned out of the Tributes and Customes a certain Quantity of Gold and Silver, with other things in *specie*, contained in the *Canones Largitionum*. The Accounts hereof were especially Managed by the *Numerarii*, living with the *Presidents* in the Provinces; but the *Numerarii* of the *Præfēt* of the *East*, Reviewed, and Examined them, being for that purpose transmitted to them. They took care that

SECT. 2. (a) *Præfēt* who Judged and Determined, as well Civil, as criminal Causes, and those of *Senators* also within a certain Compass; and to him Appeals lay, as to the other out of the Provinces, from the *Præfidents* and *Proconfuls*. *Constantine* ordained no *Præfēt* for its Government, but three *Prætoris*; whereof the first he called *Flavianus*, the second *Constantinianus*, and the third *Triumphalis*, from the Victories he had obtained; all which he would have spend large Sums of Money upon the People in the Theatres. These were to be of *Senatorian* Rank, and by such to be chosen. *Constantinus*, his Son, to these three added two *Prætoris* more, but in the last year but one, of his Reign, made one single Governour of the City, *Honoratus* by name, who had been *Præfēt* of Gall, with the Title of *Consularis* of *Byzantium*, as *Pancrolius* imagined, by a Mistake of *Byzantium*, for *Byzantium* in *Africa*; as (b) *Gothofred* tells us in his Discourse concerning this Subject. For this chief Officer had the very Title of *Præfēt*, and this Title continued, as may be seen by the Imperial Constitutions. And now had he Power over the (c) *Prætoris* of the City, the number of whom under *Valentinian* was lessened to four, who entered their Office on the first of *January*. *Gratian* added other Four. At length *Valentinian* as the Third, and *Martian*, commanded only three to be created out of the *Senators*; the dwelling at *Constantinople*, who had some Cognizance of the Affairs of Children, Minors, and the *Notitia* takes no Notice of them, as perhaps at that time laid aside, or of small Account. Their Office in those Days was dwindled to little more, than to set forth Plays and publick Shows, wherein they were at great Charges. In the time of *Iustinian* there seemeth one only to have been at *Constantinople*, called *Prætor Plebis*, whom he styleth *Magnificentissimus*, who had an Apparitor.

29. *Constantinus*, that he might give greater Authority to the Governour of this City, Ordained, that from the two Governours of the Diocese of *Pontica, viz. Bithynia* and *Paphlagonia*; and so many of *Asiana, viz. Lydia* and *Phrygia Salutaris*, and from the two *Proconfuls* of *Asia*, the *Hellefpont*, and *Ilands*, and from the three *Proconfuls* of the Diocese of *Thrace*, to him should lye Appeals. This *Præfēt* had Souldiers under him. He had Power over Trade-men, as had the other of *Rome*, and took care that the Liberal Sciences should there be professed; employing at *Constantinople*, as the other at *Rome*, three Rhetoricians, ten Gram-marians of both Languages, five Sophists, one Philosopher, and two Interpreters of the Laws. He overlaw the eleven hundred Shops given by *Constantine* and *Anastatius* to the Great Church in *Constantinople*. He had the same Officers, as the other of *Rome*; only it doth not appear that he had a *Vicar*. Amongst those the *Præfētus Annone* took Care of the *Palatine* Bread, which we formerly mentioned to have been by *Constantine's* Bounty bestowed upon the People, out of the *Palace*. As the *Præfētus Vigiliæ* at *Rome* commanded seven Cohorts or Companies for prevention of Fires; so this at *Constantinople*, five hundred and sixty three Persons chosen out of the Bodies of Artificers, and Disposed as need required, through the fourteen Regions. But this Office being in process of time bestowed on mean Persons, who instead of suppressing, conspired with Thieves, by degrees it became of no Repute. wherefore *Iustinian* in the *Præfēt's* room Created the *Prætor Plebis*, to whom he gave Power of the Sword over such as by Whoring, Stealing, or other such Courses, offended in the Night. The *Præfēt* of *Constantinople* also nominated the *Lecticarii*, or *Decanarii*, a Company founded by *Constantine*, for Burying of the Dead, maintained by Rents he assigned them out of the Shops lately mentioned. They were called *Lecticarii* from the Beds or Biers; and *Decanarii*, it's probable, because divided into Companies consisting of ten apiece. And, as at *Rome*, it's not to be doubted but here also were *Curatores Operum*; for here were also several Great and Considerable Works, which required the Oversight of some careful Persons. Here were four *Forum's*, two Theatres, one Cirque, eight Baths, two Palaces, five Store-houses, two Houses for Plays or Shows, four Cisterns, four Stews or Bains, fifty two *Porticus's*, twenty publick Prisons, like *Bridewell*, an hundred and seventy Degrees or Stairs whereon the Poor received the Bread given by Princes, one *Porphyry* Column, two others Hollow, one Colofs, besides several other things of Curiosity. Both *Præfēt's* had the Offices of *Principes*, *Cornicularius*, *Adjutor*, *Commentariensis*, and the rest. Both were Equal in Dignity, and Illustrious. Both had the same Ensigns of Authority common to them and the *Præfētis Prætorio*, or with very little difference. In a gilt Chariot drawn by four Horses, they rode through the City, with the same Acclamations of Criers and People. *Alexander* the Emperor calleth the *Præfēt* of the City, *Urbis Amicum*. Other Princes in their Constitutions give them the Titles of *Tua Sublimitas*, *Magnitudo*, *Sinceritas*, *Illustre Auctoritas*, and others given to the

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SECT. 2. *Præfētis Prætorio*. He was stiled also *Gloriosissimus*, and his Seat *Amplissima*. In his Court he had Eighty Advocates, whereof fifteen were Eminent, and called *Primates*. The first was Master Advocate of the Treasury, with a publick Salary; and all the rest had the same Privileges with other Advocates, and the Title of *Clarissimus*.

30. The several Offices of the *Præfētis* being Dispatched, who were the Highest sort of Magistrates; True Method brings us to the *Provincial* Officers under their Command; which course is fittest for understanding the Government, rather than to speak to all, as they were Ranked by their Dignities. These *Provincial* Officers, at this time, were such as under the *Præfētis* Governed the several Dioceses, or such as Ruled the several Provinces under them; the first Rule and Original of whom to Discover, it will be worth our while to fetch things higher. Know then, that the *Romans*, when they had Conquered *Sicily*, *Sardinia*, and *Corfica* first, and afterward *Spain*, and *Gallia Narbonensis*, appointed to each Province a *Prætor*, as we have in our first Tome already shewed; for that both *Spain* being subdued in the Dxx year of the City, four *Prætoris* were sent abroad. Afterward, *Africk* having receiv'd the Yoke, and the Power of the People of *Rome* being further spread, (wheras *Prætoris* had only hitherto governed Provinces) it pleased the *Fathers*, that such as had been *Consuls* the foregoing years, should, their time being out, still have the Command, as *Pro-Consuls* for the years following. *Provincial* Officers therefore were only *Prætoris*, *Proconfuls* and *Questors*, till the Change and new Model made by *Augustus*, who dividing the Provinces betwixt himself and the People, assigned to them the peaceable and settled, and retained the uncertain and unquiet, that lay upon the Borders, in his own Hands, under pretence of relieving them of so great a Burthen; but indeed thereby to have the Armies at his own Command, and prevent their turning the force of the Empire against himself.

The Magistrates now of Provinces belonging to the People, he called *Proconfuls*; being chosen by Lot out of the *Senators*, though they were not of *Consular* Dignity. They held their Office only a year, and once out of the *Pomerium* had some *Facies*, or *Consular* Ensigns born before them, till their return; but had no Authority over Souldiers, neither wore the Sword, nor *Chlamys*, or Souldiers Habit. But those he sent into his own Provinces ordinarily he called *Legati*; though persons of *Consular* Dignity and *Proprietores*; but these were afterwards called *Præfides*, and all *Legati* or *Lieutenants* of *Cæsar*. They had five *Facies*, or Bundles of Rods carried before them; had one Affessor to assist them, commanded the Souldiers; wore Swords, and the Habit; and continued in their Office as long as it pleased the Emperour. To the *Præfidents* of *Italy* that commanded Souldiers, he gave the Name of *Prætoris*, because the ancient Commanders of Armies were so called. These were afterwards stiled *Consulares*; therefore the Name of *Prætor* and *Consul*, faith *Dio*, remained only in *Italy*; the Governours of which were stiled *Prætoris* and *Consulares*.

31. To such as had been *Consuls*, he only Assigned two Provinces, *viz. Asia* and *Africk*, with three *Affessors*, and those also of *Consular* Dignity. Into the Inferiour Provinces were also sent *Questors*, who afterwards got the Name of *Cæsar's Procurators*; such was *Pontius Pilate* in *Judea*; but *Strabo* writes, (which it seems was afterward) that *Augustus* appointed Ten *Prætorian* Provinces to the Ordering of the *Senate*, into which *Prætoris* were sent, and two *Consulars*, which were Governed by *Proconfuls*. He being dead, *Tiberius* would not permit the Magistrates, that were to be sent into the Provinces, to be chosen by the People, but by the *Senate*; and so all things, by degrees were transferred into the Power of the Prince. Now a Province was that Country, or Region of the *Roman* Empire, which was not Governed by Kings, but Magistrates. For *Strabo* tells us, (a) That of all that Ground which was under the Obedience of the *Romans*, Part was held by Kings, (as Tributaries and Vassals) and Part they held themselves by the Name of a Province, and thither sent Governours and *Questors*, or such as were Employed in Levying their Tributes. The Provinces (as we said) were divided betwixt *Cæsar* and the People; but such Regions as (b) Tributary Kings and *Reguli* held, were accounted to belong to *Cæsar's* share. Provinces most commonly were bounded by Seas, Rivers, or Mountains; but in Describing a Province Concets are various. Some will have that a Province, which contained Ten or Eleven Cities; and some Question there is what thing it was which Constituted a City, or could give that Title to a Town. Some take a City (*Urbis*) of old to be meant by a place which had Courts of Justice Administred by the *Danuviri*; others require a *Prætorium*, a *Gymnasium*, a Theatre, a *Forum*, a *Stab* and *Porticus*; which indeed Lawyers

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generally esteem as Ensigns and Marks of Cities. The *Pretorium* was the place where the President or Chief Governour Administred Justice. The *Gymnasium* or *Palestra*, was a Four-square, encompassed with a *Peristylum*, or four Galleries (as the Exchange in London, or Cloisters in Monasteries) whereof that toward the South was double, having an *Exedra*, or place with Seats, like to a Chapter-House in Monasteries, where Philosophers sat and Disputed. On the Theatre were Plays and Shows presented. In the Forum the *Duumviri*, or *Defensores Civitatum*, Magistrates of the Cities, Administred Justice in lesser Matters. The *Porticus*, or *Basilica* were Arched Buildings, supported by Pillars, where Buifnesses were Transacted, as the Exchange, having about them Shops, whereof mention is often made in Law-books. The Christian Churches resembling these, were also termed *Basilicae*. Afterwards, Bishops being set over the more Eminent Towns, such are not esteemed Cities as are not Episcopal Seats, especially in Italy; yet is not this universally observ'd, and Lawyers confels it to be no necessary Mark.

What Governours of Provinces in the time of Constantine.

The Comes of the East.

The Prefectus Augustalis of Egypt.

32. But before the time of *Constantine*, whereas Provinces were of various sorts; as first, *Pretorian*, then *Consular*, and *Proconsular*; sometimes *Propretarian*, and sometimes *Quaestorian*, (as *Cyprus*, to which were sent *Quaestors*, who Raised Money, and Administred Justice without Military Power.) About this time this Custom was changed by the Institution of the four *Praefecti Praetorio*, their *Dioeceses* and *Provinces*. Over their *Dioeceses* certain Officers and the *Vicars* had Command, and under them, over the several Provinces into which the Dioeceses were subdivided, other Governours called *Proconsuls*, *Consulares*, *Correctores*, and *Presidents*. The Dioecese of the East was committed to a *Comes*, and that of *Aegypt* to one that bore the Title of *Praefectus Augustalis*, and under them the *Vicars*; as there were three several sorts of Magistrates, so of Provinces, some were of the greater, some of the middle, and some of the lesser fort. The first were Governed by *Proconsuls*, the second by *Consulares* or *Correctores*, and the third by *Presidents*; for the *Praefecti* were the lower sort of Governours, although sometimes all Provincial Magistrates (by reason of the Latitude of the words) go under that Name or Appellation; and no more kinds of Provincial Magistrates are found in the *Notitia*. Further, it must be known, that these Provinces were often made greater or lesser, viz. *Proconsulares*, *Consulares*, or *Praefidial*, according to the Exigency of Affairs, or the Pleasure of Princes; as also their Limits altered and changed for the same Reasons. The *Comes of the East* (who sometimes goes under the Name of *Praefecti of the East*, sometimes of *Vicar*, and otherwhiles of *President*, in the general sense now mentioned) had great Authority, receiving Appeals from all the Inferiour Magistrates of his fifteen Provinces. He had Power to Fine as far as six Ounces of Gold, whereas that of other Magistrates, that were only *Speculabiles*, extended but to three. To his Court belonged forty Advocates, who had studied the Law at least five years. In his Office he had six hundred Apparitors; and resided at *Antioch*, the Metropolis of *Syria*; yet from him there lay Appeals to the *Praefectus Praetorio*, and the *Quaestor* of the Palace; and his vailt Jurisdiction over fifteen Provinces, was at length cut short by *Justinian*, who confined it to *Syria Prima*, and *Cyrrhestia* adjoining to it.

33. The *Praefectus Augustalis* was instituted by *Augustus*, by him appointed to the Government of *Egypt*, and thence had his Name. He was no *Senator*, nor so much as *Consularis* till the time of *Severus*, but only of *Equestrian* Rank. His great Charge was to see conveyed away for *Constantinople* the *Felix Embola*, or the constant annual quantity of Corn. For in the days of *Augustus*, *Aegypt* supplied *Rome* with two Millions of *Modii* of Wheat; and indeed for four Months of the year alone furnished that City. The Imperial Seat being Translated to *Constantinople*, Corn was also from *Aegypt* transported thither, and thither only, after that the West was overrun by the Barbarous Nations; and hence came all that Grain, which *Constantine* turned into Bread, and caused to be Distributed to the Inhabitants of his new City; which Allowance, though diminished to one half by his Son *Constantius*, yet afterward was made up and increased by his Successors. In *Justinian's* time eight Millions of *Medimni* yearly were sent to *Constantinople*, bought with six hundred and eleven pounds of Gold, given by the Liberality of the *Senate*, or others, into the hands of the *Praefecti* of the City, or the *Praefectus Annona*. Neither is it any wonder, that *Aegypt* should afford so much Corn, considering it's vast Fruitfulness and Riches; for it yielded to *Aulites* a Revenue of twelve thousand and five hundred Talents, and as much more to *Augustus*. Nay, some affirm, that *Ptolemy Philadelphus* raised out of it three Millions and five hundred thousand

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Modii of Corn, and fourteen thousand eight hundred Talents. And yet the Inhabitants in *Nero's* time, besides the *Alexandrins*, were seven Millions and fifty thousand Persons: but, for the Power of the *Praefecti*, he inquired into the Misdemeanours of the *Praefecti* Subject to his Jurisdiction (for only *Praefecti* they were, no *Proconsuls*, or *Consulares*, because he himself was sometimes but of *Equestrian* Degree) and, their Crimes first made known to the Prince, punished or removed them. His Residence was at *Alexandria*, the great *Emporium*, not only of the *Roman* Empire, but of all the *East*. For hither Merchandise from *India* was conveyed. *Justinian* reduced his Power also into narrow Bounds, confining it to *Alexandria*, and the two Provinces called both the *Aegypti*, or all *Delas Maroticas*, and the City of *Menelaus* excepted, which he laid to *Libya*. The *Praefecti* of these two Provinces alone he subjected to his Command; allowing him an Office of six hundred men, and a Revenue proportionable to so straitned a Power. He was bound yearly to exhibit the Courses of thirty six Horses before the People, and was at further Expences in Publick Baths, and other things. The *Comes of the East*, and he had the same Ensigns of their Authority; viz. the Faces of the Princes on the top of a Gilded Pillar; on a Table covered with a white Carpet, a Book overlaid with Silver: below the Pictures of the six Provinces subject to him, holding in their hands Vessels full of Gold, in token of Tribute; having about their Necks Golden Chains, on their Heads Crowns; and some of them appear, as having cast off their Mantles from about their Shoulders. The *Comes of the East*, this *Praefecti*, and the *Vicars*, were of the Rank of *Speculabiles*, and so was the *Proconsul*.

The Ensigns of their Authority.

The Proconsul.

How much more Honourable than other Ordinary Magistrates.

34. The *Proconsul* of *Asia* had under him three Provinces, and being Governour of a kind of Dioecese, was of the same Rank and Power with the *Comes*, *Praefecti* and *Vicars*. Any other *Proconsul* that were but Governours of single Provinces, yet had greater Privileges than other Provincial Officers, as the *Proconsul* of *Achaia*, to whom the *Notitia* gives also the Title of *Speculabilis*, with his Officers, as the *Princeps*, *Comicularius*, *Commentariensis*, *Quaestor*, *Adjutor*, and the rest, whom we find belonging to the Governours of Dioeceses. There were many other particulars wherein the *Proconsul* Excelled the Ordinary Magistrates of Provinces; this Respect being continued to him by Posterity, out of acknowledgment of that great Dignity and Power whereof he was possessed. He had fix Bundles of Rods and Axes carried before him, whereas a *President* had but five. It's probable indeed, that the *Consularis* had the same Ornaments with him, but not the *Correctores*, nor *Presidents*. From his first Departure out of the City he used these Ornaments, till his Return; and exercised in the way voluntary Jurisdiction (as we call it) viz. of *Manumission* and *Adoption*, which things were not permitted to other Magistrates. He could fine in six Ounces of Gold, as could the *Comes of the East*, and the *Praefectus Augustalis*; *Presidents*, but in two. He had his *Legatus* or Lieutenant to whom he could delegate his Jurisdiction, whereas the *President* contented with one *Ajessor*, delegated Causes to inferior Judges. A *Proconsul*, though he continued in his Office but a year, yet still administred Justice till the Arrival of his Successour; a *President*, only so long as pleased the Prince. Some think that to him alone was proper the Power of Deportation, not to the *President*. He had the same Privilege of old, as the *Praetor* at *Rome*, of publishing Edicts to moderate the Law, which were termed thence *Jus Provinciale*, a Power never granted to *Presidents*, nor other Magistrates, styled *Clarissimi*, till the Reign of *Probus*. *Proconsuls* were under Command of the *Comes of the East*, or of *Vicars*. The *Proconsul* was Subject to the Orders of the *Praefectus Praetorio* alone. From the *President* not though Delegated by the Prince, Appeal lay to the next *Proconsul* in Matters not exceeding ten pounds of Gold; but from the *Proconsul*, to the P. P. or the *Quaestor* of the Palace. The *Proconsul* had his *Libellenses*, not the rest. He rode in a Silver Chariot drawn by four Horses. He had for Ensigns of his Authority the Picture of his Provinces, or Province, together with the Images of the Princes on a Pillar, and a Book of Mandates standing on a Table covered with a white Carpet, with a golden Fringe. Neither he, nor any other Magistrate could stir out of his Province, nor make War without the Authority of the *Senate*, or the *Prince*; and Neither could any of them in his Province build a Ship; left by a Liberty, and Study of Gain, they should be diverted from the publick Buifness, or intercept the Profits and Encouragements of Merchants.

Other Provincial Magistrates of the Degree of Clarissimi.

35. Now after these, who bore the Title of *Speculabilis*, a little of the other *Provincial* Magistrates styled *Clarissimi*; such were *Consulares*, *Correctores*, and *Presidents*, to whom, under the *Vicars*, the Provinces ordinarily were divided. Here the

F. de Jure Fisci
l. 4. §. 2.
Joh. Laccinius
de Jure Martiani
no. lxxi. c. 2.
F. 1.

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Sect. 2. the *Consulares* are not to be understood, as such who had born the Office of *Consul*, but as were dignified with *Consular* Ornaments only; being first Instituted by *Augustus*, and set over the Provinces of *Italy*, whence they passed into other Countries. Sometimes Commanders of Armies have been called *Consulares*; either by Reason of the same Ornaments, or because they were created out of this sort of Magistrates, and there was a *Consularis* of Waters under the *Præfekt* of *Rome*. Their Ensigns of Authority were six *Fasces* and Axes, a *Curule-Chair*, and the Faces of the Princes, with the Image of a Woman representing the Province; whereas *Corrēdores* and *Præfidents* had that of a Town, and a Book of Mandates, not marked, as was that of theirs. Their Office or Attendance was Constituted, as that of *Præfidents* and other *Clarissimi*. They had of old two *Numerarii*, but afterward were allowed but one apiece. There were in the *East* fifteen *Consulares*, and sometimes in the *West* two and twenty; and the Name and Employment continued till the times of *Justinian*, who mentions the *Consularian* Provinces.

36. *Corrēdores* held the middle Place betwixt *Consulares* and *Præfidents*. This sort of Officer is found in the Reigns of *Severus* and *Caracalla*, and afterward was created a *Corrēdor* of all *Italy*, who continued long in use, till *Constantine's* time, and then this Emperor ordained two for that Country. At length they got into other Provinces, as *Angulimica* and *Paphlagonia* in the *East*, and in the *West*, *Savia*. They had some Command over Souldiers, whom they punished with the Knowledge of the *Magistri Militum*. They wore the *Chlamys*, and had as Ensigns of their Authority the Faces of the Princes, with Books of Mandates, and the Image of a Town, and the same Office, or Apparitors, as the *Consulares* and *Præfidents*. To add something, though not much, to what we have already frequently hinted concerning the *Præfes* or *Præfident*: Of those *Prætorian* Provinces made by *Augustus*, *Alexander* the Emperor made many *Præfident*: and afterwards *Prætor* being taken away, all the rest became such, till the Reign of *Justinian*, who restored the Office and Authority of *Prætors*. The *Præfidents*, as others of the *Clarissimi* were termed *Ordinarii*, their Provinces *Ordinarie*, and also their *Seats*; generally they had the Style of *Clarissimi*, but not all: for the *Præfes Arabia* under the *Comes* of the *East*, and he of *Isauria* were but of the Degree of *Perfēdissimus*. The Prince honoured them, as the *Corrēdores*, with the Titles of Brothers, of *Justinian*, *Vigilantissimi*, *Optimi* and *Præstantissimi*; as *Claudius Iulius* saluted *Felix*, and *St. Paul* worded it to *Festus*. They continued in Power but a year, except the Prince thought fit to continue them longer. Their Office and Attendance was very little different from those of the *Consulares* and *Corrēdores*: and the Ensigns of such of them who were but *Perfēdissimi*, were well nigh the same with those of the other.

37. We have Dispatched the Civil Magistrates of the Provinces, and now come to the Military, being of as great Concernment, such as were placed on the Limits of the Empire. *Augustus* (as we said) retaining those Provinces that were Troublesome, and furnished with Souldiers, in his own hands; appointed nine Regions, or Limits, on the Borders to be kept by the Legions. One in *Spain*, with three Legions; one in the Lower *Germany* upon the *Rhine*, with four; another in the upper *Germany*, upon the *Danubius*, with other four; a fourth in *Dalmatia*, with two; a fifth in *Pannonia* with three; a sixth Limit in *Syria*, with four Legions; a seventh in *Ægypt*, with two; an eighth in *Africk*, with one; and a ninth in *Messia*, upon *Danubius*, with two. All which make up twenty five Legions. But to these *Claudius* added a tenth Limit in *Britain*, with three Legions; *Vespasian* an eleventh in *Cappadocia*, with two; *Trajan* a twelfth in *Dacia*, with two; a thirteenth in *Armenia* and *Mesopotamia*, upon the River *Tigris*, with other two; and a fourteenth in *Arabia*, with one. All which make up the number of thirty five Legions. Afterwards, new Enemies continually falling upon the *Roman* Empire, sometimes new Limits were added to the old, and otherwhiles their Number was lessened, as the state of Affairs required. *Dio* mentions thirteen in *Alexander's* time, and the *Notitia* fifteen in the *East* alone. Afterward, when the Empire of the *West* was over-run, the Emperor *Leo*, for the better Defence of the *East*, added three Limits, with so many *Comites*, and one *Dux* of the Western *Pannonia*. And whereas *Palestine* and *Mesopotamia* had formerly had each its *Dux*, this Charge of those Countries was given to a single Person; there being now five *Comites* that Commanded in the *East*. For the better understanding of these Limits, or *Præfectures*, as they were also called, *Theodorus* (a) tells us in his *Noëls*, that whatsoever belonged to the *Roman* Empire, was in old time fenced with a *Vallum Limitis*, a Wall or Rampier of a Limit, from the Incursions of Barbarians.

38. Yet

Sect. 2. 38. Yet is not this old time to be extended beyond that of the Emperor *Adrian*, before whose Reign, the *Romans* in their Limits made use of Camps and Stations, rather than Walls: but *Adrian* found it more convenient to raise Walls in such Places (a) as were not by Rivers separated and fenced from Barbarians; of which that is most celebrated, which he here in *Britain* caused to be drawn betwixt the mouths of the Rivers *Tine* and *Esk*, though the Materials were no better than Turf. Afterwards (b) were added for the further security of the Limits, *Towns*, *Garisons*, *Castles* and *Fortes*, such as (b) *Zosimus* writes *Dioclesian* to have raised out of his great fore-sight, for the safety of the Empire. These *Towns* are called *Towns of View* or *Discovery*, by *Antiquaries* (c) the Orator; for upon the Borders were of old appointed Select Companies of Spies, or Scouts, call'd *Speculatores*, or *Exploratores*, whose Duty it was (d) *Ammianus* describes it, to go far and near to Discover the Motions of the Neighbouring Nations to the *Duces*, or Captains. But it was grown a great piece of Policy with the *Romans*, and that we can easily believe, before the time of *Dioclesian*, for hindrance of the Irruptions of Barbarous Nations, to build *Towns* upon the Borders; not only where there was no Natural Fence by Mountains or Waters, but upon Rivers also, as hath often been observ'd. For instance, *Strasbourg*, *Spire*, *Mentz*, *Confluentz*, and others upon the *Rhine*, to restrain the Incursions of the *German* into *Gall*; and it was also practis'd by them here in *Britain*; where *Bravonnum*, or *Brannonium* was built upon the Eastern Bank of the *Severn*, the better to curb the *Transalpine* Natives, besides *Deva* (now *Chester*) and other Cities upon the River *Dee*. As for the other sorts of Works, the greater Munitions were called *Castra*, from the Camps of the Souldiers, and these, not seldom, grew into great *Towns* or Cities throughout *Europe*; which we find evident here in *Britain*, where almost all our great Cities and *Towns* had their beginning from the *Roman* *Castra*, (whether on the Borders or elsewhere) though not always planted in the very same site, yet at no great distance. And especially this observation holds in those, the Names of which were in the *Saxon* times fashio'd so as to end in *Chester*. For which reason also it is, that the Ancient Stations about the *Piæ's* Wall, the *Carkkies* of many whereof do at this day appear, are still called *Chesters* by the Country People. The lesser sort of Munitions were not termed *Castra*, but diminutively *Castra*, *stella*, and *Burgi*; which Name, as *Vegetius* writes, was under the later Emperours given to small Castles, or Forts convenient for War, and well stored with Corn; and the *Burgundians* from living in such, received theirs; to which *Orosius* also witnesseth. *Procopius* writes, as if these small Forts were first built upon *Danubius*, being not strong in themselves, but in the Souldiers who lodged in them. That *Attila* easily Demolished them in his Passage, and that *Justinian* re-edified them, not such as they had been formerly, but very strong, and able to endure a Siege. But of all these *Towns*, Camps, or Castles, there were in the *East* alone above three hundred *Garisons*, and scarcely any Province but had fifteen, or thereabouts.

39. Now, to come closer to our business; every one of these *Towns* had its Governor, or *Præfident*, and the several Limits or Frontiers had their several *Duces Limitanei*. Here we must take notice, that the Commanders of Armies were Anciently called *Duces*, though most commonly *Imperatores*. Afterward the Sovereign Power being transferr'd from the People to the Prince, and the Title of *Imperator* being assumed by him as Peculiar; Generals were only called *Duces*. At length the Name was in an eminent way conferr'd on such as Commanded the Souldiers lying upon the Frontiers, which being ordinarily Insest by the *Barbarians*, stood in need of perpetual Guards. And of these *Ensigns*, or the Author of *Constantine's* Life, is to be understood, where he writes, that that Emperor made many *Duces*; although the *Duces* of the Borders were much Ancienter than in his time. Our Learned *Camden* will have those that Govern'd the Limits first styl'd *Duces*, about the time of *Belius Verus*; but *Pancinolo* more Antiently than this; no later than the first Emperours. Their Name and Office was older, but their great Encouragement, and the support of their Employment they received from *Alexander Severus*, the Emperor, who, as *Lampadius* tells us, gave such Grounds and Territories, as were gained from the Enemy upon the Borders, to those *Duces Limitanei*, and such Souldiers as served under them; to pass from them to their Heirs, on condition that they continued in Service, and never to come into private hands. He concluded, that they would hereby be provoked more industriously to mind their Business, while they fought for the Defence of their own Possessions: and for their further Encouragement, he bestowed upon them Cattel and Slaves, that they might Till their Lands, and thereby, the forsaking of these Territories so near the Enemy, through

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337.

Their Power.

- See *Selden*
- *Titles of Ho-*
- *nor*, Part 2.
S Ch. 1.

*Vide Panciro-
lun in Not. Imp.
orient. C. 139.*

Fracturing.

337.

hic Magistratus
 quisquis in
 orbe, Arcadius
 sureconsultus
 in praesenti esse
 iuxta, & praesent
 es eos vo
 cant Arcadius
 & Honorius.
 hic Praetori
 in quo hi
 Magistri Militi
 controvers
 as, aut Delicta
 cognoscant,
 praesentem Ju
 lianus vocat;
 denique Domes
 tici, qui sem
 per Principum
 comitabantur
 quandoque Prae
 sentabantur. Vide
 pancerolum in
 comment. in
 Not. utramque
 p. 31.

what.

Regio, quod
reguntur Mili-
es in delectu.
Parro de Lingi
ar. lib. 9.

Sect. 2.

to be added to them. He that gave both such Names and Number to the *Legions* A. D. as stuck by them, was *Julius Cæsar*, who with ten *Legions* in nine years subdued Gall, and according to the Order and Time of their raising, named them First, Second, Third, &c. which custom continued; but his best beloved was the *Dei* 337. *cimana*, or Tenth, which had shewn most Affection to him. To other *Legions* Names were added upon Occasion; as, that which with the Fourth revolted from *Pompey* to *Cæsar* was by him called *Martia*, for the Reputation it had of Courage. To another he gave the Name of (a) *Alauda*, because the Soldiers thereof wore Helmets crested, like the head of a Lark, or from the *Auspicious* of that Bird, as *Cicero* will have it. *Augustus* having obtained the Monarchy, kept in Pay twenty three *Legions*, or as some say twenty five, as (b) *Dion Cassius* tells us; adding withal, that in his time but nineteen remained; the Names of which he sets down, and observes, that the rest were either disbanded, or by *Augustus* himself or other succeeding Emperours mixed with other *Legions*; whence the name of *Gemelle*, given to some of them was thought to proceed. If the Reader please to know the Names of all the rest, which by other Emperours were raised till the time of *Dio*; he may further have a view of them in that Historian: but the Number of the *Legions*, as the Names, were changed according to the Pleasure of Princes, or Exigency of Affairs.

Pilius.

Auxilia.

Palati.

Principes.

Tribun.

Prefecti.

44. Some of the *Legionary* Soldiers were ancient men, and bare heavy Armour, as of old the *Macedonians*, viz. round Targets, and *Sarisse*, or long Lances. Others were young Men called *Velites*, who neither using Breast-plates, nor Bows, nor Targets, cast Missile Weapons afar off, or Stones, either with their Hands, or Slings, in *Legions* called *Pilani*, and out of *Legions*, *Auxilia*; being then procur'd by the *Romans* from their Friends and neighbouring Nations; and least reckoning being made of them, they were most expoid to Danger, and placed in the Front. There were a third sort amongst the *Legionary* Soldiers, they called *Pelati*, of greater Age than the *Velites*, and so called from a light and small Shield, which they used in Fight, together with a shorter sort of Lance, from which the *Romans* more Ancient named them *Hastati*, and those still more modern *Lancearii*. Lastly, there were others, which being most remarkable both for Age, Strength, and Experience, had the Honour to be call'd *Principes*; of which the first was called *Primus Princeps*, the next *Secundus Princeps*, *Tertius*, *Quartus*, &c. accordingly, as there were *Primus*, *Secundus*, and *Tertius Hastatus*, and *Centurio Primipili*, and *Centurio Primi Hastati*; and amongst the *Triarii*, *Primpilus*, *Secundus*, *Tertius*; and from those who were termed *Principes*, were the Heads, or Chief of the Officials, or Officers belonging to the *Præfidents*, and other Magistrates, which we have already mentioned, styled also *Principes*, for that there was amongst the said Officers or Attendants, a few or likeness of the *Militia*. In general, it is to be noted that Anciently none could be admitted a Soldier, that was not of the stature of five Foot and seven Inches, which *Valentinian* in a Constitution (which shall be mentioned in its place) affirms to have been the Custom observ'd from the Founding of the City. And therefore, when *Lampridius* writes, that *Alexander* the Emperour was of the Military size, he is to be understood according to this Measure. For what more might be said of the *Legions*, as to their Number or Names, the Reader may consult *Pancirolos*, who has Exhibited them as he found them Engraven in an old Marble Stone at *Rome*; to which Catalogue he hath added another Table, whence it appears, both at what time, and by whom each of them was raised.

45. From them we shall pass to their Officers; and first take notice, that of old he that had the Command of a *Legion* was called a *Tribune*, and the Principal Officers of the Wings of Horse, a *Præfekt*. To which Places *Augustus* prefer'd young Senators. But in the time of the *Notitia*, and afterwards, we ordinarily meet with *Præfekt* of *Legions* and Fleets, and *Tribunes* of *Cohorts*; yet so as that Name of *Tribune* did still also continue in the former sense, and by *Præfekt* of *Legions* are principally to be understood the Greater sort of *Tribunes*, so named to distinguish them from such as Commanded but a *Cohort* of the *Legion*, or D Foot, and by degrees were Promoted. These Greater Officers heard and determined the civil Controversies of their Soldiers, and did lightly also punish them, so far as to Beating, (as one of them commanded *St. Paul* to be used), but could not pass any Capital Sentence, except in the absence of the *Magister Militum*, or other Superior Officer, whose *Vicars* they were called for this reason, and might Punish as well as they, if they were *Comites* of the first Rank. The Care of Arms and Cloaths for the Soldiers, as well as Discipline, belonged unto them. Other *Tribunes*, which

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which had not arrived at that Honour, might Determine the Matters of their Men, and Punish them moderately; but their Authority extended not to Life. The *Tribunes* could give leave to their Soldiers to be absent, but not in time of Expedition or Service, upon Pain of Death. The Higher Sort received their Commissions from the Prince. The Inferiour sort of *Tribunes*, being Ten in number, because so many *Cohorts* in a *Legion*, were promoted by Succession, as others died, or were removed to Higher Places. After their Example, the Ten *Notaries*, who, under the *Primicerius*, handled the Matters of the greater *Lateranum*, were called *Tribunes*; for they had under them Inferiour Clerks or *Scriniarii*, as these *Tribunes* other Inferiour Officers: whereupon this was termed the *Literata Militia*, because it imitated the *Armata*.

Vexillatio.

What Images the Romans used in their Standards or Colours.

46. Next after a *Legion* follows that, which, in those days they called *Vexillatio*, and it received its name from the Banner or *Vexillum*, the Diminutive of *Vellum*, a square Banner-Roll, used by Emperours and other Generals. These *Vexilla* belonged both to Horse and Foot, being used by the *Romans* as well as the Ensigns, or *Signa*: But to fetch these things higher, *Romulus* for his Ensign or Colour, used only Bundles of Hay tied to the tops of Spears; so humble in all respects were the Beginnings of the *Roman Greatness*. Afterward they had the Eagle, Wolf, Minotaur, and Boar, which were borne before, and in the Army, till such time as *Marius* in his second *Creatures* appointed the Eagle for the whole *Legion*, and then the Images of other Creatures became the *Signa* of *Cohorts*, to which were added a Dragon, and an Hand, and at length a Ball or Globe, by *Augustus*, to signify that the World was subject to the *Roman Empire*. The Eagle at first was of Silver, and being set in a kind of Box or Case, was fixed to a long Spear or Pole, but afterward, when *Rome* had got the Wealth, as well as the Sovereignty of the World, it turned to Gold, and, as the Armour-bearer of *Jupiter*, held a Thunder-bolt in its Feet; so that it may seem something Strange, that the *Romans* appointing this Bird to so masculine an Employment, should in their Language subject both Sexes of it to the Feminine Gender. But to our Business, *Vexillatio* is here taken for a Troop, *Turma*, or *Census* of Horse-men fighting under one *Vexillum*, whereon was expressed what Troop it was, of what *Cohort* or *Century*, together with the Prince his Name, and probably his Image; but *Constantine* caused therein to be inserted a Representation of the Cross, which at the time of his Conversion, he saw in the Air, and now came up the word *Labarum*. A *Vexillatio* in a *Legion* contained thirty two Horse, commanded by a *Ducurio*, out of a *Legion*, sometimes three hundred, less or more. An *Ala* of Horse contained also a *Vexillatio* into the other they named *Cunei*. Now of Horse-men some were *Cataphracti*, who being armed themselves throughout, used also armed Horses; others were of light Armour, as *Hastati* or *Contati*, who fought *Cominus*, with Pikes, or Lances; and such as besides Launces made use of Targets, and were called *Scutarii*; and others went under the Name of *Ferentarii*, who fought *Eminus*; and these were, either the *Scythe* or *Sagittarii*, who fought with Bows and Arrows, as our Archers or *Tarentini*, that used Darts. And such of them as having discharged all their *Missilia*, came afterwards to Hand-froakes, were called *Jaculatores*. The whole *Ala* was commanded by a *Tribune*, who as appears from *Capitolinus*, had sometime also the Name of *Sevir*; and so much of the *Vexillatio*.

Auxilia.

After the time of Constantine, all were distinguished into Vexillatio, Comitatus, and Vexillo-Comitatus.

47. To add a little concerning the *Auxilia*; there was this difference between them and the *Legions* at first, that *Legions* consisted of *Roman* Citizens only; *Auxilia* of Friends or Allies, and were joyned as *Leves Armature* to the *Legions*. But after that the Sovereign Power was transferred upon the Prince, *Legions* were also raised out of Allies and Confederates. A *Legion* had its several Officers, Superior and Subordinate, together with its several Companies and Ensigns. An *Auxilium* was Commanded by one *Tribune*, or *Phylarcha*, alone, and consisted of M, or more, ordinary *Gregarius* Soldiers, and was (as it seemeth) from his Constitutions by *Justinian* called *Optio*, though *Optiones* were also particular Persons. But thus much of these several sorts of Soldiers; of whom the Reader must farther observe, that at what time *Constantine* Constituted three Ranks of *Comites*, there were also Ordained three Orders or Ranks of Soldiers, with new Names or Titles. For all standing Companies, as well of Horse as Foot, were distinguished into *Palatini*, *Comitatenses*, and *Pseudo-Comitatenses*. The *Palatini* were such as had obtained the Honour to be of the Guard to the Prince his Palace; and in this respect were in greater Esteem than the rest. The *Comitatenses* were so named from the *Comitatus*, or Company of the Prince, and having succeeded the *Prætorians* were

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was in his Court, and waited on him whithersoever he went. The *Pseudo-Comitatenfes* were the rest, imitating them, as it were, in their Officers, Companies and Symbols, but not graced with the same Privileges and Immunities: for both their Allowance was less, and in Case a *Comitatenfis* died intestate, and without any apparent Heir, his Company, or Troop was Heir at Law, but the Prince or Treasury succeeded to the *Pseudo-Comitatenfis*. To prevent Fraud herein, none could pass from one Order to another without the Prince his special Warrant. In the *Notitia* are reckoned up under the *Magistri Militum* special *Presentalis*, only *Palatina Auxilia*, *Vexillations* of Horse, both *Palatine* and *Comitatenfes*; but *Legiones*, both *Palatine*, *Comitatenfes* and *Pseudo-Comitatenfes*. And thus much concerning the Office and Commands of the *Magistri Militum*, who were by Dignity *Illustres*, as reckoned amongst those of Highest Rank, and esteemed equal with the *Præfidi Prætorio*, and the *Præfidi* of both Cities.

Officers that served the Emperor in his Court.

Præpositus Sacri Cubiculi.

Three Degrees of Illustrious Persons.

The *Decanus* via.

48. And so we have dispatched what the Design of this present Work requires, concerning such Officers as constituted the Polity, and carried on the Government abroad, and in the Provinces. We must of necessity see who they were further, that served the Prince at home, or in his own Court. Of these some took Care of the Business, some of the Person, and the Bed-Chamber of the *Præfidi* and *Præmicerius Sacri Cubiculi*; under whom waited the *Comes Sacre Vestis*, and several inferior Officers and Attendants, who had the Name of *Decani*. Some served him at Table, and attended on him in the Palace of Courte; as the *Comes Cæsarænsis*, under whose Inspection waited the *Præmicerius Menjarum*, the *Præmicerius Cælariorum*, the *Præmicerius Pedagogorum*, and the *Præmicerius Lampadiorum* of the first, second and third Rank. Some wrote the Secrets of the Prince, viz. three Persons called *Cartularii Cubiculi*, and by some the Palace was kept and attended, viz. three *Decuriones Silentiariorum*, and the *Comes Domorum per Cappadociam*. Of all those the *Præpositus Sacri Cubiculi* was the highest in Place and Degree, for his great Charge of the Emperor's Person, and his Nearness to him, which Relation rais'd him to the highest Dignity of *Illustres*. This he enjoyed before the time of Theodosius the younger; yet so as to take place after the P. P. the *Præfidi* of the Cities, the *Magistri Militum*, and the *Comites Consistoriani*, or the *Comes Sacrorum Largitionum*, *Comes rei Privæ*, the *Questor* and *Magister Officiorum*, of whom hereafter. But by a Constitution of that Prince, he was made equal in Degree with the *Præfidi* of both sorts, and the *Magistri Militum*; so as he and they should take Place according to the time and order of their Promotion. And here it will not be amiss to hint to the Reader, that from the Laws are to be observed three Degrees of Illustrious Persons; the first was of the *Consuls* and *Patricians*, who took not their Place according to their Promotion, but preceded others, however of the Degree of *Illustres* before them. The second was of such, as amongst whom the time, and order of Promotion was observ'd, and they took place accordingly, being otherwise equal, and these were the (a) *Præfidi* of both sorts, the *Magistri Militum*, and the *Præpositus Sacri Cubiculi* now under Consideration. The third Rank comprized the *Questor*, *Magister Officiorum*, the *Comes S. Largitionum*, and *Comes Rerum Privatarum*, which four, though they were of the Degree of *Illustres* might, as well as the rest, yet held, as it were an inferior Rank by themselves; so as by the time of Promotion they were not privileged to take place of the other, but have had only Precedence amongst themselves; of whom we shall write after we have added something concerning the Attendance of the Prince his Bed-Chamber, leaving the rest of the Court to be spoken of according to their Dignity.

49. The third that were waited were called *Cubicularii* and *Ministeriani* from their Services, and this was the general Name; but amongst them some were known by that of (b) *Decani*, perhaps because they were ten in number, as *Pancirolos* questuarius, or else they had under them that number of inferior Waiters, for the word *Decanus* we know signifies one who presides, or commands ten Persons, and thence hath been transferred in a more general Signification, to such as precede other Clerks in Churches, and at this day signifies a *President*, as in the Faculty of Medicine at *Paris*, where the *President* of the College they call *Decanus* (in French le *Doyen*), and they have an Officer, who looks to the Physick Schools, the Senior Batchellor of Physick, whom they term *Archidiaconus* (or *Archidiaconus*) such Correspondence in Names, as well as other things, hath there been betwixt the *Militia Armata*, *Palatina*, and *Togata*. But these *Decani* dressed the Emperor, made his Bed, kept the Doors, and did other Services there, as *Pancirolos* questuarius; or rather were a sort of Serjeants at Arms; the chief of them, and who commanded next the *Præ-*

A. D.

337.

Pide omnia Comens. Je suis Gouthepidi in L. ult. de re militari.

Notitia Augusti

Cod. Th. lib. 6 Tit. 8. de Præpositis Sacri Cubiculi et Cæsarænsis. lib. 12. Tit. 5. Illustria loci notitia.

(a) Pide Comes Sacrorum Largitionum, Comes rei Privæ, the Questor and Magister Officiorum, of whom hereafter.

Cod. Th. lib. 6 Tit. 8. de Præpositis Sacri Cubiculi et Cæsarænsis. lib. 12. Tit. 5. Illustria loci notitia.

Sect. 2.

337.

Their Privileges.

The *Magister Officiorum*.

His Employment.

Persons under his Jurisdiction, as several Schools.

Being him they called *Præmicerius*. The next in order to him was the *Secundocerius*, then the *Tertiocerius* and *Quartocerius*: as to which Terms *Suidas* writes, that *Præmicerius* is the first of an Order or Rank, and that the Addition of *Cerius* is only a lengthening of the word, and further signifies nothing. The *Præmicerius Sacri Cubiculi*, was by his place of the Dignity of *Specialis*, which very Title the *Notitia* gives him. Of the *Comes Cæsarænsis*, and other Officers out of the Chamber, we shall speak anon. Those of the Chamber enjoyed many Privileges. They were exempted from finding Men and Horses for War, and from Quartering Souldiers. They were convented, upon occasion before the *Magister Officiorum* (the Supreme Judge of all Courtiers) and needed not put in Bail or give Security, but were committed to the *Præmicerius*, who was charged with them, and had reason to be good in his Office, for it lasted but two years, at the end whereof, he was succeeded by the *Secundocerius*, or him that was next to him. From all forcible Services they were free, and from Contributions to the Repairing of Bridges, High-ways, or the like. As all those Officers belonging to the Bed-Chamber enjoyed these Privileges, so much more the *Præpositus Sacri Cubiculi*, who, besides his Command over these and other Persons, had the oversight of many Houses and Lands in *Cappadocia*, (where a great part of the Prince his Patrimony lay) and sent his Officers called *Canonarii* to collect the Rents, which being brought to Court were expended in the Maintenance of the Household.

50. He that held the next place in Court after the *Præpositus Sacri Cubiculi*, was the *Magister Officiorum*. Under *Constantine* the Great he was both called *Tribunus* and *Magister Officiorum*; sometimes in the Laws *Comes Officiorum*; for he was in *Comitatu Principis*, and stood by him in the Consistory with other Persons of the Greatest Quality. He had his Name from his Command over the Officers or Servants of the Prince; for *Officia* here is to be taken for the same as *Ministeria*. *Zollinus* and *Procopius* call him the Captain or Governour of the *Palatine* Ranks or Orders. And he had not only Authority over the Courtiers and Attendants of the Prince, and such Companies about the Palace as were in Arms, but had the oversight also of *Fabrics* or *Forges*, and power over the *Limitaneus Duces* and *Comites*, from whom appeal lay to the *Questor* and Him. His Duty it was to present first *Senators* to the Prince in the Provinces (as appears from *Calliodorus*, who in the Forme of his Patent sets forth the Nature of his Employment) none could be made Judges without his Approbation; and in the City he had an hand in the making of such Officers as took care of Provisions. By his means Audience was procured from the Emperor, both to his own Subjects and Strangers, whom it was his duty to entertain. He also had the Power of the *Cursus Publicus* or Postage, which was permitted to no Subjects, but the *Præfidi Prætorio*, and himself. They could grant in the Prince his Name, Liberty of this *Cursus* to others; and if any offended in this kind, it was incumbent upon him to present their names to the Prince. But to come more Particularly to Persons, or things over which this *Magister* had Power or Jurisdiction: He of the East oversaw Eight Colleges, Bodies, or Companies of Armed Men about the Court, which in those days they termed *Schola*. Of these, Two were called *Scutarii*; the Third *Gentiles Seniores*; the Fourth *Scutarii Sagittarii*; the Fifth *Scutarii Chibarii*; the Sixth *Armatura Juniorum*; the Seventh *Gentiles Juniores*; and the Eighth *Agentes in Rebus*, and the Deputies of this *Schola*. Besides these, were under his Command the *Mensores* and *Lampadarii*; Four *Servini* or Offices, viz. *Memorie*, *Epistolarius*, *Libellarius* & *Dispositionum*; the Office of *Admissiones*; Fifteen *Fabrics* or *Forges*; whereof of the East five, *Pontica* three, *Asia* one, *Thrace* two, and *Asyricum* four; and two *Comites* of the Limits, and thirteen *Duces*. The Command of the West (when the Empire came to be divided, was, if the State thereof admitted it, the same; though as to Numbers it might differ: For here were Nineteen *Fabrics*, whereas in the East were but Fifteen.

H

50. Of

Sec't. 2. were such as provided Quarters or Lodging for the Emperor, or his Army upon any Journey or Expedition, in Towns or Cities; and in the Field chose out and prepared the Ground for incamping. As to quartering or lodging in Towns, it was the manner of these *Menfiores*, as of Harbingers at this day, to fix upon the Doors the names of such persons as were there to be received. The Landlords or Owners of the Houses were obliged only to afford them the third part of their Lodgings, except the persons entertain'd were *Illustrious*, and then they were to allow them one half. And if it hapned that such as were to find Quarter were of the Dignity of *Illustrious*, and had several Houses, they were allowed to keep their own dwelling Houses to themselves, but leave the other to be disposed of for Quarters. Neither were any excused, except some few privileged persons, from this Duty, but as well the private Houses and Grounds of ordinary men in the Country, as the Lodgings of Citizens were obnoxious to it. Now when the Emperor was to travel, his *Gests* were published two Months before, and therein every days Journey appointed and limited, with the hour of his setting forth, the Mansions where he would bait or lie, and where the Provisions of the Army were to be received; these were the *Menfiores* of most account in Law-Books. Others there are mentioned under this Name, who served at Court, and are thought to have provided Dyet for the Courtiers, and, as Aveners, Hay and Provender for their Horses. These also were to be approved of by the Prince in the *Scrinium Libellorum*; and their *Primicerius*, or Chief of them, after two years service, was permitted to enter himself as a *Tyro*, or the lowest of all in the *Schola* of the *Agentes in Rebus*. And besides these the *Magistri Militum* had their own *Menfiores* or Quarter-Masters, who provided Quarters for the Souldiers under their Command; but they are not of this sort under present consideration.

55. The *Lampadarii*, mentioned in the *Notitia* with the *Menfiores*, were those that took care of providing Lamps or Lights, not only for the Court or Palace, but for the several Offices hereafter to be spoken of: the Clerks of which often sitting up very late, had occasion to use many of them. The Principal, or *Primicerius* of them held his place three years, and then others succeeded him in order. Besides these Officers under the inspection of the *Magister Officiorum*, and the four *Scrinia* (of which it's more proper to speak hereafter, because, though they were under his inspection, yet they had Masters also of their own, of three of whom the *Notitia* treats, amongst those of the Palace, that were of the degree of *Speculabiles*) the Office of *Admissiones* was, as appears both from the *Notitia* and *Cassiodorus*, under his Command. Those that belonged to this Office were called *Admissionales*, and had also a Master of their own by the name of *Admissionum Magister*; because it was their duty to admit and introduce such as came before the Emperor, and those that had the Honour to do their obeisance, salute, or as the *Latine* word is, *Adore him*. But this Adoration was little more than what we use to our Princes at this day, viz. a kneeling to them, and bowing the Head; which being in use with the Subjects of *Persia*, and others, at length was required by the *Roman* Emperours. But long it was ere it became solemn and constant at *Rome*: for though *Caligula*, *Domitian*, and *Heliogabalus* would be so worshipped, yet other Princes either neglected it, or forbade it (as *Alexander Severus*, who would have no such Honour paid to him) till *Dioclesian*, who admitted it again, and thenceforth it became a constant Ceremony, and was received by the Christian Emperours; whereas his Predecessors, as *Ammianus* tells us, were wont to be saluted no otherwise than the Judges. But as modern Princes (more condescending) are wont to give their Hands, the border of the Emperours Robe or Purple was usually held and offered (in *Procopius* his time by two persons) up to be touched and kissed, whence these manners of Speech often occur in the Books of Law, and others; not only *Adorare Imperium*, *Adorare Principem*, and the like; but *Adorare Purpuram*, *Purpuram attingere*, and *Muriceum adorare*. Of this Ceremony, as is evident from the *Notitia* and the Code of *Theodosius*, there were several Methods, according to the Quality of the persons that were received and introduced by these *Admissionales*, who, as we said, were under the Jurisdiction of the *Magister Officiorum*, together with another sort called *Invitatores*, whose Duty it was to invite such as should eat with the Emperor, or fetch others to him upon other occasions. Of these the *Notitia* maketh no mention; but being joyned together with the *Admissionales* in a Constitution of the Emperor *Leo*, we've think it (with *Pancirolos*) convenient enough here to say, that these were such men.

56. But the next and especial charge of the *Magister Officiorum* were the several *Fabrice*

A. D.

337.

De modo Maje-

statis, Vide Pa-

tristion, Tit. 1.

Lib. 7. Cod. Th.

Cod. Th. lib. 10.

tit. 22. de Pa-

mentis, Novell.

Theod. tit. 13.

de Maje-

statis, Novell.

Theod. tit. 1.

de Maje-

statis, Novell.

Theod. tit. 1.

de Maje-

statis, Novell.

Theod. tit. 1.

de Maje-

statis, Novell.

Theod. tit. 1.

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Theod. tit. 1.

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statis, Novell.

Theod. tit. 1.

de Maje-

Sec't. 2.

Fabrica, or Forge,

and of these the

Notitia makes ample

mention, reckoning up

those that belonged to

the several Countries.

These *Fabrice* were

places wherein

Arms were made and

provided for the Army,

usually in the Provinces

not far distant

from the Borders;

for there was of them

the greatest need. In

every of them

all sorts of Arms or

Weapons were not

made, or that but

rarely; but each *Fabrica*

was appropriated to

some particular kind,

as that called *Scutaria*,

to the making of

Armour for Defence

and Protection of the

Body, as Targets,

Backs and Breaks,

Helmets, and the like;

and (*a*) *Clibanaria* to

those that were pro-

per to the *Catapradis*,or *Scythians*, who

were wont to

bestride the

Babes, and whom

we lately spake.

When the Arms

were perfected,

they were then

remitted to the

public Magazine,

and there reserved

for use, it being

unlawful for any

to buy or sell them,

or make any else-

where: such as

wrought them had

the name of

Fabricenses, being

men chosen out

of such as were

not obnoxious to

any Duties, or

Employments in

Corporations,

which being made

out before the

President of the

Province, or the

Magistrate of the

Town, they were

admitted into the

Company, and to

public Salary; For

each *Fabrica* had

its Company or

Body apart, where-

in, after the man-

ner of the Offices

at Court, there

were four or five

more Eminent,

who received

greater Wages

than the rest; and

of these the first

had the Title of

Primicerius; who

at the end of two

years was dis-

charged of his

Office (the next

succeeding him)

and the Employ-

ment also; and

was admitted

amongst those

they were called

Protectores, to

salute or adore

the Emperor after

the manner we

ere used to

described; but

all of them were

subject to a

Tribune; he who

presided over

every Forge, being

called by this

Name, as appears

from *Ammianus**Marcellinus*. The

Materials for

making these

Arms the Provincials

brought in, both

the Ore of Iron

and Brass, and

also Coals; and

in some parts

of the East, Money,

instead of the

Materials them-

selves, till notice

was taken by

Theodosius the

Great, and how

by this means

there was much

abuse committed

(the Workmen

receiving the

money, and for

their own gain,

buying what

was cheapest)

he commanded

expressly, that

the payment

of these Mate-

rials should

thenceforth

ever be made

in Kind. And

as hereby he

obviated the

covetous prac-

tices of these

Fabricenses, *Arca-**dus* his Son

by another

Law prevented

their Idleness,

and deserting

the Publick

Works; com-

manding that

they should

have *Stigmata*,

or marks set

upon their

Arms, as *Tyro-**nes*, or new

Souldiers were

wont to have,

that thereby,

if they con-

cealed them-

selves, they

might be

discovered: for

the Employ-

ment they

could not

leave, till

such time as

they had

passed

through all

Degrees, and

had dis-

charged the

Office of

Primicerius,

neither could

their Child-

ren be excus-

ed from it. If

any of them

fled or made

away what

he had, the

rest of the

Body were

answerable

for him; and

upon this

account, if

any of them

died without

Heirs, his

Estate fell

to the Com-

pany. To

encourage

them, be-

sides the

Honour they

obtained

after their

discharge,

they enjoyed

other Privi-

leges, being

free from

the burthen

of Quarter,

largely men-

tioned, and

having the

Magister Officiorum

alone for

their Judge.

We

shall add

further con-

cerning these

Fabricenses, that

amongst

them there

were a sort

of men called

Barbaricarii,

the business

of whom it

was to cover

or adorn

Helmets,

their Beavers

or Crests

with Brass,

Gold or Silver,

resembling

men, and

various

sorts of other

Animals, after

the fashion

of *Barbarians*.

These, in

respect of

the Weapons

they dealt

with, are

sometimes

by the *Notitia*,

and the Laws,

Sect. 2. of Papers supposed to contain the Edicts of Laws published by him in the Emperours name. And this, as the Great Seal or Purse with our *Chancellors* or *Keepers* stood by him when he fate in Court, and, perhaps, was borne before him, as *Pancirolos* guesleth; and now it was, that the Acclamations was made of his being the Father of his Country as was usual to the *P. Pretorio*. The *Notitia* faith exprelly, that he had no *Officiu*, but Affidants out of the *Scrinia*, or Offices, as he pleased; which *Pancirolos* them affords. interprets to have been Twelve *Notaries* out of the *Scrinium Memorie*; Seven out of the *Scrinium Epistoliarum*, and as many out of the *Scrinium Libellorum*; which being Twenty six in number, he used in the writing of Rescripts, his Proceedings and Laws; and they had the Title of *Viri Devoti*. Lastly, it is observable, that *Justinian* instituted another sort of *Questors*, to inquire into the Cause of the coming of Countrymen into the City to decide their Matters, and send them home in the twelfth year of his Reign. But indeed, he rather restored than first introduced these Officers, who also took care, that Solicitors of Law-Suits received not immoderate Fees; and for that purpose had their Apparitors and Assessors.

61. But to the most ancient *Questors* succeeded, in time, the *Comes Sacrarum Largitionum*. *Augustus* in room of them sent certain *Procurators* chosen out of the *Libertini*, or *Equites* into the Provinces; who, gathering the publick Revenue, received a Salary from him, and were styled *Procuratores Augustales*. They decided Causes belonging to the Revenue, and sometimes governed Provinces, if not very large; and of this sort was *Pontius Pilate* in *Judea*, where a *Procurator* was in the room of a *President*. But for management of the publick Treasury at *Rome*, from the time of *Augustus*, down to *Constantine*, there were sometimes *Questors*, most commonly others, who had the Name of *Præfidi Erarii*; *Constantine*, when he came to the Government, changed the management of the Treasury, by introducing two new sorts of Magistrates, who should order the whole income; whereof the one was called *Comes Largitionum*, and the other *Comes Rerum Privatarum*. This *Pancirolos* ascribes to *Constantine*, although by guess, as we may judge; for the most Learned *Gothofred* affirms, that by all the Laws he cannot find any of these Officers under that Emperor. However, probable enough it is, that he brought them up: for by the *Judiculus* which *Gothofred* gives us of the *Comites Largitionum* mentioned in the *Code of Theodosius*, there is one who executed this Office in the time of his Son *Constantin*, and another during the Reign of *Julian*; as about the same time, others, who bore the place of *Comes Rerum Privatarum*. The *Comes Largitionum* had first his name *Largitionibus*, from the free gifts of the Prince; and held it, when his work was quite altered, as much from what it was then, as the Chief *Treasurer* of a Nation differs from an *Almoner*. Though indeed the Gifts of the *Roman* Emperours were so great and frequent, that the management of them may seem far to surpass the care and trouble of the Revenue of any Nation now in being, which formerly was but a Member of that Empire. And so necessary they were, that *Augustus* in his *Rationarium* of the Empire, or Book which he composed with his own Hand, together with the publick Treasury and other things, wherein the strength of the State consisted; the Fleets, Kingdoms, Provinces, Tributes and Tolls; therein made mention of the *Necessitates* and *Largitiones*; by the former meaning his necessary, by the latter his free and voluntary Expenses.

62. At first the Emperours made use of a Candidate of the Questorship, or some other Courtier, who paid such Assignments of Bounty, as they made out of their Privie Purse, till *Alexander Severus* brought in those they called *Erarii*. These Acts of Bounty were chiefly upon occasion of some publick Rejoicing, and were called *Congiaria*; probably from the carrying of the Money in *Congia* (that sort of Vessels) into the *Forum*. This course to please the People, was much practised by *Augustus*, and after by his Successors imitated, till *Constantine*, as was said, for the distribution of his Bounty, brought in this Office, who from the *Largitiones* or Gifts, had his name. Before his time the *Congiaria* and Feasting were the usual ways, whereby the Princes carressed the people. In and after his time, they used several other Courses. *Pancirolos* takes notice, that a pound of Gold was wont to be given to the *Altarcha*, that he might not cut down the Cypress Trees, as he was wont, in the Grove of *Daphne*. Ten pounds of Gold were given by *Justinian* out of the Revenue of *Phœnicia* to the *Præmicerius Notariorum*; but a set and solemn sort of Bounty they used on New-years-Day, on which it was the Custom for them to give New-years-Gifts to the *Comites of the Constatory*, and others; as with the late Emperours, to present the Senate and Officers of the Army on Easter-Day. Besides these, this *Comes* paid Souldiers and others their Wages; and thence had the Name, not only of *Largitionum*, but *Remunerariorum Comes*. To these were added *Comes Sacri Erarii*, *Thesaurorum Curator*, or *Præfides Imperialium Pecuniarum*, *Questor*, and the like; for to him was also committed the care of collecting and keeping the publick Revenue arising by tributes and customs.

Sect. 2. 63. The Revenue by Customs was either greater, or lesser, according to the Covetousness, Occasions, or Humours of the Princes. In the Reign of *Heliogabalus*, the tenth part of the value of Wares was exacted, which *Alexander* reduced to the thirtieth, or little more than three in a hundred; and this gave Occasion to the stamping of half *Aurei*, and the third part of an *Aureus*; all Payments of this Nature being in those days made in Gold. But succeeding Princes would have the eighth part of the Value, or little more than twelve in the hundred. And for Tribute the Subject paid what the Emperour, or *Præfides Pretorio* demanded, or as the custom of the Countreys was, (as was formerly said) which being in kind was laid up in the publick Store-houses, for the Maintenance of the Armies, and relief of the Poor: but the Money arising from the Customs and Tributes was the charge of the *Comes Largitionum*. The Jews paid a *Didrachm* for every Head, which being imposed in the room of that, which was wont to be paid to the Temple, *Theodosius* commanded to be also received by him, as that Impost called *Capitatio* upon Country-men, was wont to be. Now that this *Comes* might the better discharge so vast an Office, for procurement of the Payment of the Revenue, he sent some of those Officers, or Notaries that attended him, called *Invitendarii*, into all the Provinces, to constrain the *Præsidents*, or Governours to gather, and pay the Money; who for this purpose named one, or two of their own Office, as *Procurators* to attend. Besides there were others called *Trasactores*, who as *Auditors* took their Accounts; and every four Months sent them up with the Money to the *Comes*.

64. But there were many Officers in the Provinces, which the *Notitia* placeth under his Disposition, or Command. As first, in the five Dioceses of the *East*, so many; who were also styled *Comites Largitionum*, though but of the third Degree or Rank of *Comites*; for they were but *Perfessissimi*. The Dioceses are in the *Notitia* set down in general, without any Enumeration, or certain Number; but *Pancirolos* will have them six, viz. the known ones; the *East* strictly so called, *Aegypt*, *Affrica*, *Pontica*, *Thracia*, and *Macedonia*. Besides these the *Notitia* mentions others called *Comites Commercialium*, through the *East* and *Aegypt*, through *Messia*, *Scythia*, *Pontus* and *Illyricum*, being four in Number, as he computes. These were tradesmen, or Overseers of such, who bought up Materials for the Emperour's or Emperess her wearing, as Silk, Wool, Flax, Purple, Skins, or other Materials, and provided Jewels and Pearl, Ointments and Silver. It was their Work also to see, that all Duties were paid by Merchants, for which purpose they had Officers under them, called *Stationarii*, in Places of Traffic: for out of the Customs it was, that Gift-Money and Wages were paid. Moreover, they look'd that no forbidden Commodities, as Gold, Iron, Grinding Stones, Armes, Salt, Corne, Wine, Oyl, or other things were carried out of the Empire to *Barbarians*; whom they neither permitted to traffick in the Empire, nor the Emperour's Subjects in their Territories. Next after these *Comites*, the *Notitia* mentions the *Præfides Thesaurorum* under Command of the *Comes Largitionum*. These were the Treasurers of every Province, who kept the Money of each *Diocesis*, and separate from the rest, till it was sent up to him, having received it from the *Decuriones*; for in each City this was the Course of raising Money imposed by way of Tax: There was one *Decurio*, or Alderman chosen out to be Receiver, and accordingly had the name of *Susceptor*, who received what was required by way of Tax of every one after it was gathered, and paid in to him by the *Ducenarii* and *Sexagenarii* Apparitors, to whom the *Tabularius*, or Clerk so called, gave out the Rolls. The *Susceptor* gave an *Apocha*, or Acquittance to him that paid him, wherein was expressed the name of the Payer, the sum, the Cause of the Payment, the Day, Month and Consul; as in like manner did the *Stationarii*; to those of whom they received the Custom, and then sent away the Money to the *Præsident*, by whom it was conveyed to the *Thesaurarius*. These *Præfides* being in Places of so great Trust, were not admitted, no more than the other *Thesaurarii*, but in the *Scrinium Epistoliarum*, by Commission signed with the Prince his own Hand; nor without having first given sufficient Caution for their honest Deportment.

65. Next after these *Præfides Thesaurorum*, is reckoned the *Comes Metallorum* *Vide Goth. in L.L. 2. 4. de Metallis & Mineralibus Cod. Theob. lib. 10. Tit. 199* through *Illyricum*, who exacted the Portion of Gold due to the Emperour, from such as gathered it, either in Rivers, or Mines, according to the Customs of Places; eight or seven Scruples, or Carats by the year, not in melted Gold, but in the Oar. He is named of *Illyricum*, because there, as in *Macedonia* and the neighbouring Countries, was great plenty of Metals, and there the Emperour had also Mines of his own; the Overseers of which were chosen out of the *Curiales*, or best men

men of the Cities under Command of this *Comes*. After him follows one termed the *Comes*, or *Rationalis Summarum* of *Aegypt*. He was sent into that Country to inquire after those they called *Bona caduca*, *Epheats* or Goods which any other way fell to the Exchequer, having at first no Jurisdiction; but afterwards, there being found Reason to employ him in business of very great Moment, his Dignity increased so, that he obtained the Title of *Comes*, and of *Rationalis Summarum*. For in those days, and long after, till the finding out of the way into the *East-Indies* by Sea, there being a vast Trade driven in *Aegypt* out of *India* and *Arabia*, for Silks, Precious Stones, Pearl and Spices, and thereupon vast Customs arising; it was thought fit to employ such an Officer, and to gain him Respect by such a Title and Character of *Comes*, *Rationalis*, and *Procurator*. It was the Custom for a *Rationalis* to go very well habited, as appears by a Story out of *Ammianus*; how a Barber being sent for, to cut the Hair of *Julian* the Emperour, one came to him so spruce and fine, that he was amazed, and said, I did not fend for a *Rationalis*, but for a Barber. In the *West* there were eleven *Rationales* made in several Provinces; but in the *East* this of *Aegypt* is only mentioned, so that *Pancirolos* concludes, that either something is wanting in the *Notitia*, or else the under-*Comites Largitionum* in the other Provinces supplied their Places.

66. Next follow in the Catalogue of Officers Subject to the Command of the *Comes*, they who went under the Name of *Magistri Linæ* (or *Lintæ*) *Vestis*; these were the Overseers of such as wrought in Linnen, for the furnishing of the Court with Necessaries made of that Stuff, which Workmen were of the Quality of those they called *Conditionales*; that is, they and their Children were perpetually obnoxious to this Work and Service. These *Magistri*, both took Care for preparing the several sorts of Linnen, and when made kept a Wardrobe of them, of which the Inventory was preserved in the *Scriniun Sacri Vestiarii*, written by the *Primicerius* of that Office. In the *West*, instead of these *Magistri Linæ Vestis*, there was one that bore the Title of *Comes Vestiarii*, who provided and kept the Linnen as the other did; and by some is reckoned amongst the *Cubicularii*, or those of the Bed-Chamber. After these *Magistri* come the *Magistri Private Vestis*, or Masters of the Privy Robes, who had the charge of providing those that were made of other things than Linnen, as of Silk and Woollen, for the Prince his use. They are also by *Constantine* termed *Procuratores*; and by Reason of the great things in their Charge, were to give Caution before their Admittance. Next follow the *Procuratores Gynæceorum*, so called from the *Gynæcia*, or inward Rooms, where Women as well as others wove Hangings, and other things of Silk, or Gold and Silk together; of which Works these *Procuratores* had the Charge, and gave Caution also at their first Admittance. Those that fewed under them being sometimes Slaves, but however otherwise free Persons, yet condemned (both they and their Posterity) to this Service. The *Procuratores Baptorium*, or of those Work-houses where Wool or Silk was died, follow next. The Work-houses were many throughout the Empire; but those of most esteem were in *Phœnicia*, for the dying of Purple, the Sale of which was forbidden, it being unlawful for any but the Prince to buy it; and those Dyers were of the sort of *Conditionales* also, being condemned with their Posterity to this Drudgery. Then those the *Notitia* mention the *Procuratores Monetarium*, or those who under our *Comes Largitionum* took Care of the Mints, or coining of Money. In the *West*, as we formerly said, it reckons up six Places that had publick Mints, of which each had it's *Procurator*; but how many were in the *East* it doth not express; though we have formerly taken notice of some Cities, that had this Privilege.

67. Here it will not be inconvenient to say something of the value of the Roman Coin: And first of the lowest sort, or that of Brass. Their *Æs* therefore, or most Antient Money, was first stamped by *Servius Tullius*, whereas formerly it was distinguished only by Weight, and not by any Image. And first the Image was that of Cattle or *Pecus*, whence it was called *Pecunia*. Afterward, it had on one side the Beak of a Ship, on the other a *Janus*, or double Body, and such were the stamps of the *Æs*: for as for the *Triens*, *Quadrans*, and *Sextans*, they had the Impression of a Boat upon them. A long time did the Romans use this kind, and no other Money, till after the War with *Pyrrhus*, in the CCCCLXXXIII year of the City, and five before the first *Punic* War, Silver began to be Coined. The Stamps upon the Silver *Denarii*, or Pennies, are, for the most part Waggon, with two or four Cattle in them, on the one side, and on the other the Head of *Rome*, with an Helmet. The *Victoriat* have the Image of Victory sitting: the *Sestertii* usually *Castor* and *Pollux* on the one side, and both forts, on the other part, the Image of the Ci-

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Seç. 2.
When Gold.

ty; so the Custom continued during the Commonwealth. *Augustus* caused *Capricorn* to be set upon his Coin; and the Succeeding Emperours ordinarily their own Images. Last of all came up Coin of Gold, which was first stamped sixty two years after that of Silver, in the Consulship of *Claudius Nero*, and *M. Lælius Salinator*, with the same Stamp and Images; which to our Learned Countrymen *Brevemod* seems to have been the Reason, why Golden Coins are also sometimes termed *Denarii* by the Romans. So much for the Original of the several sorts of Coins; now, more particularly, of the several kinds. First, of the Brass, from this named Author, to whose Discourse nothing is now to be added, except it be this; that the Romans had a greater sort of Money mix'd of Brass and Silver, called *Majorina*, as is observable out of the Code of *Theodosius*.

Several sorts
of Brasi-Coin.

68. The *As* was so named, *quasi* *Æs*, or Brasi, being of that Metal, and at first consisted of a Pound-weight, till in the first *Punic* War, the People being forely oppress'd by Debt, caus'd of one, six to be made, and yet to be of the same value. In the second *Punic* War, *Annibal* forely pressing upon them, in the *Distatorship* of *Fabius Maximus*, they were reduced to one half, or to consist of an ounce apiece; and in conclusion, by the Law of *Pæpurnus*, brought down to half an Ounce, and so continued. Now the *As* contained the tenth part of the *Denarius*; and was in value of our Money ob. q^r. The *Semissis*, or *Semies*, half as much. The *Triens* was the third part of the *As*, and the *Quadrans* the fourth, by some called *Triuncus* and *Teruntius*, because it contained three ounces before the value was diminished. The *Sextans*, or sixth part was that which every Head contributed to the Funeral of *Menenius Agrippa*, as the *Uncia*, or twelfth part for use, and therefore there were other *Vices* made, as the *Uncia*, or twelfth part of the Pound, the *Semuncia*, of the weight of four *Drachms*, and the *Sextula*, or sixth part of an ounce. These were the Coins lesser than the *As*, anciently used by the Romans in their Traffick; but there are greater than the *As* mentioned, (he tells us) by *Varro*, as the *Decussis*, which was of the value of *Ten*, or of a *Denarius*; the *Vicissis*, of two *Denarii*; the *Tredecissis*, of three; and they arose as high as *Centussis*, than which there was no word that contained more of Brasi Money. This contained an hundred *Affes*, was worth ten Silver *Denarii*, and of our Money 6 s. 3 d.

Of Silver.

69. For the Silver Money, the old *Denarius* was so named, because it contained *denos* *avis* or *asses*, viz. ten *Affes*, though its Weight and value was not at all times alike. For the old Roman *Denarius*, during the Commonwealth, weighed the seventh part of an ounce; and was in value of our Money 8 d. ob. c. with $\frac{1}{2}$ c; but the new *Denarius*, which came up in the time of *Claudius*, or a little before, weighed exactly an Attick Drachm; so that the Greek Writers, when they speak of it, for every *Denarius* mention a Drachm; which of our Money was of the Value of 7 d. ob. Now, with reference to this new sort of *Denarius*, are computations made generally; and if respect be had to the Antient Times, when the old, and true one was in use, then are all reckonings to be increased one seventh part; for so much did the Old exceed the New. Now know, that when you meet with *Bigatus* and *Quadrigatus*, are they the same with a *Denarius*, so called, because it had the *Bigæ* and *Quadrigæ* stamped upon it. There was another Coin called *Victoriat*, from the Image of Victory seen upon it, first stamped at *Rome*, by a Law of *Clodius*, as containing the value of five *Affes*, and was worth 3 d. ob. q. The next that follows, and which makes most Noise in Books is, the *Sestertius*, so called *quasi* *Sesquiterius*, because it contained two *Affes* and an half, being the half of a *Victoriat*, and the fourth of a *Denarius*. In Writers it's often called absolutely by the name of *Nummus*, because it was in most frequent use, as also *Sestertius Nummus*, being worth of our present Money but 1 d. ob. q^r. The *Obolus* was the sixth part of a *Denarius* (equal to the Attick *Obolus*) and therefore by *Celsus* is called *Sextans*, as *Brevemod* quotes him, being as much as $\frac{1}{4}$ d. q^r. The *Libella* was the tenth part of *Denarius*, and equal in value to the *As*, so called as a little Pound, because supposed to equal a pound of Brasi. It was but of our Money worth ob. q^r. The *Semibella*, as if written *Semilibella*, was half this. And lastly, the *Teruntius* was the fortieth part of a *Denarius*; so named, because it was worth three ounces of Brasi. It was the least Silver-Coin in use with the Romans, at least, that is met with in Books, being as inconsiderable in value, as next to nothing.

Sestertius.

Nummus.

Obolus.

Libella.

Semibella.

Teruntius.

Golden Coins.

70. To come at last to the Golden Coins; those most Remarkable were the *Aurei* *Denarii*; so styled, because either the same Images were stamped upon them as upon

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Sec. 2. upon the *Denarii*, or because in bulk they do much resemble them. From such of them as Time hath not Consumed, it appears, that the old *Aureus*, stamped during the Commonwealth, weighed two Silver *Denarii* 3, so as forty two were made of one Pound of Gold. It weighed two *Drachms* with; and was worth of our Money 17 s. 1 d. ob. q^a. The Newer *Aureus*, stamped about the beginning of the Emperours, was lighter than the former, one seventh part, weighing two *Drachms*, so as forty eight were made of one Pound of Gold; so that in Weight they equalled one of our Rols-Nobles, being worth about as much, or 15 s. of our present Money. Thus they continued *Didrachmi* for the time of the five first *Cæsars*, till *Nero's* Reign, and then by the Fraud and Avarice of Princes were made lighter, at first, in *Nero's* time, but two or three Granes; then under *Galba* they wanted a little more; and those of *Nerva*, *Trajan* and *Adrian* were made lighter, but the *Aurei* that *Vespasian* stamped, want ten Granes in Weight; as also those of *Antoninus Pius*, *M. Aurelius*, *Severus*, and others. And for *Domitian* it may be said, that he restored to these *Aurei* in his time the full Weight of two *Drachms*. But so the Roman *Aurei* continued, either *Didrachmi* or thereabouts, till the Reign of *Alexander Severus*; and he caused to be Coined the *Semifis*, or *Half-Aureus*, consisting of one *Drachm*, as also the *Tremifis*, or *Triens*, or Third Part; the one being worth 7 s. 6 d. and the other 5 s. of our Money: and so the Mint went till *Aurelian* Reigned; who again returned to the *Aureus* two *Drachms*; and so this Coin continued as long as *Rome* continued to be the Seat of the Empire.

71. *Constantine* the Great brought the Weight of the *Aureus* down in his Mints from two *Drachms* to one, and a seventh part; so that it weighed exactly the weight of the old Silver Roman *Denarius*; for he caused seven to be made of one Ounce, or Eighty four of a Pound; yet Ordering each to consist of four Scruples, as he saith in his Edict, by a new way of Reckoning twenty Granes and a half to a Scruple. This new *Aureus* was after his time, by Greek Writers, called *Numisma*, (as *Solidus* by the Romans, being of our Money in value 8 s. 6 d. ob. q^a & q^a.) Such *Aurei* continued in use till the Reign of *Valentinian*, who caused others to be stamped, that were something more heavy; for he Ordered that Six should be made of one Ounce of Gold, whereupon by the Greeks it was called *Hexagion*, and by others *Sextula*. These contained four Ounces of Gold. And such were the *Aurei Solidi* in the time of *Justinian*; and so they seem to have continued till the last; except, when by the Avarice of Princes they have been made lighter, as *Brierwood* upon Trial found in the Coins of several Emperours; but the just Weight was four Scruples, and so they were of the value of our 10 s. There being also stamped by *Valentinian* the *Semifis*, or half of the *Aureus*, the *Triens*, or Third part, and the *Scrupulum*, or fourth part of this *Aureus Solidus*, which abated proportionably in value.

72. To make this Matter compleat, we must add what Silver and Brass-Coins were in use at *Constantinople*, after the Translation of the Empire thither. There was that they called *Miliarium*, which weighed two *Drachms*, being worth the eighth part of an *Aureus Solidus*, and of our present Money 1 s. 3 d. The greater *Siliqua*, or *Cerate*, contained half of the value of this, or 7 d. ob. The *Siliqua*, or *Ceratinum Simplex*, being the twenty fourth part in value of the *Solidus Aureus*, was worth of our present Coin 5 d. These were Silver. Then was there of Brass or Iron-Coin, the *Follis*, so called, because it was beaten out like a Leaf. It was worth the twelfth part of a *Siliqua*. Such were the Roman Coins, the Names of which our *Brierwood* could discover in Antiquity. It remains, that something be said of the Marks of certain Coins, by which they may be known in Ancient Writers, and the Sums by which they usually reckoned. Because the *A* was at first (as hath been said) of a Pound weight, it is thus expressed **L**, and the *Sestertius*, because it contained in value two pounds of Brass and a half, thus **HS**, or **HS**. The mark of the *Quinarus*, or *Vicioratus* was **A**, and of the *Denarius* **X** or **xx**.

73. Now for the Sums, there were three in use amongst the Romans. First, *Sestertium*, in the Neuter Gender, according to the Vulgar Opinion, which contained a thousand *Sestertii*; so much as in the time of *Augustus* it was lawful to spend at a Wedding-Feast. The next was the *Libra*, or Pound, which contained of Silver twelve Ounces, or ninety six *Drachms*, or later *Denarii*, and was worth of our Money 3 l. The third was the *Talent*, which contained twenty four *Sestertia*, and six thousand later *Denarii*, being the same with the *Attique Talent*. For, the Names of

The New *Aureus*.

How it varied under several Emperours.

Numisma. *Aureus Solidus*.

Silver and brass-Coins at *Constantinople*.

Sums of Money.

Sec. 2. of *Talent*, *Mina*, and *Drachm*, the Romans took from the Greeks, as those from them the other of *Libra* and *Uncia*. This was worth of our present Money 187 l. 10 s. There often occurs also the mention of *Spartila*, which was of the value of ten *Sesterces*, and 1 s. 6 d. ob. q^a. These were the Sums by which they reckoned. But, as for the *Sestertium* in the Neuter Gender, Mr. *Brierwood* observes, that it's not to be found in any Ancient Author in the Singular Number, as now it is used. And the reason brought why it should be termed *Sestertium*, because it contained two Pounds of Silver and a half, is not good; for a thousand *Sesterces* make up 7 l. 16 s. 3 d. whereas the two Pounds and a half amount but to 7 l. 10 s. But the Plural Number *Sestertia* is often met with, and in this sense, as containing a thousand *Sestertii*. However, in reckoning by *Sesterces*, the Romans had an Art, which may be known by these three Rules. The first is, that if a Numeral Num agree in Case, Number and Gender with *Sestertium*, then it denotes precisely fo many *Sestertii*, as *Decem Sestertii*, just fo many. The second is this; If a Numeral Noun of another Case be joyned with the Genitive Plural of *Sestertius*, as *Sestertiis*, it denotes fo many thousand; as for Example, *Decem Sestertiis* signifies ten thousand *Sestertii*. Lastly, If the Adverb Numeral be joyned, it denotes fo many hundred thousand, as *Decies Sestertiis* signifies ten hundred thousand *Sesterces*; or if the Adverb Numeral be put by it self, it is of the same signification, as *Decies*, or *Vigies*, fo many hundred thousand *Sestertii*, or, as they say, an hundred *Sestertia*: It's eafie to fee here in Reading Authors very Learned Men have been mistaken, for want either of Knowing or Observing these Rules. But thus much of the Roman Coins, from the Learned *Brierwood*, to which, upon occasion something may be added. Now to return.

74. Next to the *Procuratores Monetarium* (under whom such as wrought were also, with their Wives and Children obnoxious to that Service.) The *Notitia* mentions the *Prepositi Basilicorum*, as also obedient to the *Comes Largitionum*. By *Basilaga*, or *Basilagna* is meant a Duty of Conveyance, or carriage of things belonging to the Publick, or to the Prince. Of such as were obnoxious to this Service, some Discharged it by Water, as the *Naucularii*, of whom heretofore, and some by Land, by Mules or Horses. The *Tertiocerius*, of the Office of this *Magister*, gave order for the *Basilaga*, of which each had its *Prepositus*, or Overseer. The last sort of Officers under Command of the *Comes Largitionum*, mentioned by the *Notitia*, are the *Procuratores Linificiorum*, whose Duty it was to procure Flax for the Service of the Prince and Court, as it was the Task of the *Magistri Lince Vestis*, to get it Cleanfed, Wrought, and made up into such Cloths or other things as were required. All those Officers were obedient to the Command of the *Comes*, but had distinct Charges of their own, not being his Attendants, or his Servants. But he had an *Officium*, or number of Attendants, being Secretaries or Clerks, who took the Accounts of those forementioned Persons. Those wrote in ten several *Scrinia* or Offices, and were termed the *Milita Literata*, and *Palatini*, because they lived in the Prince his Palace, being Excused from Sordid Employments, and the finding of Souldiers. The which *Officium*, or Attendance had its *Primicerius*; there were also the *Secundo-cerius*, *Tertio-cerius*, and *Quarto-cerius*; and each *Scrinium*, or particular Chamber, had its *Primicerius* also. The *Primicerius* of the whole Attendance, and the three next under him, enjoyed the Dignity of the *Pretorian Tribunes*, being permitted to Salute the Prince, and adore the Purple, as they phrased it; nay the *Primicerii* afterwards had the Honour of *Exconfulares*.

75. To omit the Description of the Nature of these several *Servitia*, as also the Arms of this *Comes*, as too tedious, which the Reader, if he please, may find in *Pancirolos*. The next Great Officer, and of the Dignity of *Illustrius*, was the *Comes Rerum Privatarum*. The Emperours, very anciently, had such as took care of their Private Estates, or Patrimonies, especially the *Rationals* of *Alexandria*; but *Severus*, after the Overthrow of *Albinus*, Confiscating the Estates of an infinite number of Persons that had taken his part, gave original to this Office, setting one more certain; who in Books goes under many Names and Titles: as *Prætor Procurator*, or *Curator*; *Rationalis*, *Procurator Private Rationis*, *Magister Rei Private*, *Rationalis Summe Rei*, *Domus Procurator*, *Comes Rei Domince*, *Imperatoris Domus Præficus*, *Comes Rerum Privatarum*, *Imperialium Thefaurorum Curator*, *Imperialium Pecuniarum Privatarum Quæstor*, *Comes Illustrius Herarii Privati*, and others. He of the East had the Charge and Government of all the Prince his Patrimony, or Demefie, especially his Lands in *Asia*, *Pontica*, *Cappadocia*, *Mesopotamia*, *Ophroecha* and other

Three Rules about *Sestertia*.

Prepositi Basilicorum.

The *Comes Rerum Privatarum*.

A.D. 337.

Notitia.

A *Barag*.

Porto.

(a) *Vide etiam Notitiam Digestum Codicis Theodosiani*. (b) *Constitutum Privatarum, sive Notitiam Imperialis*. (c) *Castellarius*. (d) *Vide Pantheon in Notitia*. (e) *Vide Pantheon in Notitia*. (f) *Vide Pantheon in Notitia*.

Sec. 2. other Regions; together with the Parks, those Lands called *Emphyteutica Prædia*, the Husbandmen, the Flocks, Herds, and other things. For the better Discharge whereof, he had Command over the *Presidents* of the Provinces, and ordered all the private Accounts. Most anciently he that discharged this Employment was but of *Equiftrian* Dignity; sometimes but a *Libertus*. Before they arrived at the Dignity of *Comites*, they judged only Slaves, Vilains, and such as belonged to the Lands of the Emperor, with his *Bona Emphyteutica*, or such things as were brought to the Treasury, and had Power over their own Train or Attendants: But after these *Procurators* came to be *Comites*, they had Cognifance of Inceft; and took Care, that Sepulchres were not violated, as *Cassiodorus* in the *Formula* of this Office gives us to understand. In this Commission the King further tells this *Comes*, that it is his part to direct the *Canonicarii*, or such as gathered the *Canones*, or Payments due from Lands, to call upon the Tenants, and take Cognifance of those Goods, or Estates called *Bona Caduca*. Moreover, that it was his part to recover to the Treasury such Money as was casually found, and owned no private Master. Though the Laws, as *Brassus* observes, gave such Treasure to the Finder.

76. Farther, from Corrupted Judges he recovered the Triple value in Pecuniary Matters, in Capitals their whole Estates. From the *Cohortales*, or Officers of Courts, four-fold the Sum they had Exact'd of such as went to Law. Publick and Navigable Rivers also seem to have been under his Inspection, because said to be in the Patrimony of the Prince. He paid Artificers their Wages, and for the Family of the Emperor and Empress, he found Provisions; without his knowledge nothing belonging to the Private Estate of the Prince could be Alienated, not so much as by the *Præfidi* of the City. Before him were Tried such Gifts, as were said to be given by the Prince out of Publick Debts, and without him nothing could by Petition be obtain'd. He had under him *Rationales* or *Procuratores*, for gathering of Monies, from whom there lay Appeal to him: and if the Business was not worth so great a Journey, he might Delegate the Governour of the Province to Hear and Determine the Matter. The Treasury which belonged to the *Comes Largitionum* was properly called *Ænarium*; and that wherein this *Comes Rerum Privatarum* kept his Money, was termed his *Arca* or *Coffer*, and also *Fiscus*: although the Terms of *Ænarium* and *Fiscus* be often Confounded, and one taken for the other: Neither doth *Fiscus* fignifie all Private Matters belonging to the Prince, not extending to his Lands, but relating to forfeited Estates, or such as fell for want of Heirs, and certain Tolls or Customs. This *Comes* had in his Court a certain number of Advocates, who obtain'd from the Emperor *Anafafius* the Privilege when they left Pleading, to be styled *Clariffimi*, and to be esteem'd *Comites* of the first Rank.

77. He also, as we hinted, like as the *Comes Largitionum*, had his *Rationales* or *Procuratores* in all Provinces, to receive all the Estates Consecrate, or any other way appertaining to his Office. In order hereunto, this Course was observ'd: First, He in whose hands such Goods or Estates at present were, was Cited to Appear, which if he did within thirty dayes, he was heard; paying to the *Primicerius* of the Office, and to the Advocates, four *Solidi*. In case no man appear'd, the Goods were seized, yet the Interest of the Possessor still saved; so as if he yet came he might still be heard. The *Comes* first declaring, that he challenged the Estate. Then did the *Rationales* inventory the Goods, and seized on them in the Emperor's behalf, which Action they termed *Incorporatio*: and lastly, fixed Bill, or Titles on his Lands, which should give notice of the same. To these *Rationales* also belonged the Care of the Emperor's Houses, the Lands *Patrimonial* and *Emphyteutical*, the Recovery of Treasure found; and if any one sued for any thing belonging to the Prince before any Judge, it ought not to be without the Knowledge and Presence of a *Rationalis*. Next to the *Rationales*, the *Notitia* placeth the *Bagage Private* under the Disposition of this *Comes*: for he commanded those Carriages which conveyed the Private or Patrimonial Matters of the Prince; over which, *Pancirolos* thinks, that as in the *West*, so in the *East* there were two Overseers. There were also under him Overseers of Stables, or places where Cattel were kept; of Flocks and Herds preserved for Breed: as to which *Pancirolos* takes notice, how *Arcadius* the Emperor celebrates two of *Mares*; the one first called *Hermogenie*, and the other *Palmetie*, of which in our following History. There were also the *Procuratores Saltuum*, or of Parks or Pastures, into which these Cattel were sent to feed; these are the Officers mentioned by the *Notitia*, as under the Command of the *Comes*, to which *Pancirolos* and *Gothofred* add others out of the Laws: as the *Comes Sacri Patrimonii*, said by the *Greeks* to have been first

A. D.

337.

Vide de hac vi
luculentam for-
mulam Caffio-
dori. Primum
tibi contra nefarias
habitudines, &
humani generis
improbus appeti-
tus, quæ Per-
vici Publicæ
detracta Collo-
dia est Oræ.
Vide quoque
Comitibus fatis.
Cassiodorus Pro-
tationem & fcar-
tas Mortuorum.

Officers under him.

Sec. 2. first brought up by *Anafafius*, who had a peculiar Charge of the Lands of the Prince, and meddled with nothing else.

78. There was also a *Comes Stabuli*, who had the Charge of the Emperor's Horses, and of conveying Horses out of *Africa*, and the other Provinces for the Service of the Army; which Custom was at length left off; and Money being more wanting, began, in lieu of Horses to be exacted of those *Africans* at first three and twenty *Aurei*; afterwards twenty only, and after that eighteen, and then fifteen for every Horse; other two *Aurei* were paid to the *Comes Stabuli*, as his Fee, which Custom was abrogated by a Law. There was also under Command of this *Comes Rei Private*, the *Comes Domorum pro Cappadociam*, or the *Comes* that had the Charge of the Emperor's Houses in *Cappadocia*; and besides the *Rationales*, others called *Magiftri Rei Private*, and the *Præpositi Gynæcio*. Besides these Officers subordinate and commanded by him, he had, as other great Magistrates, an *Officium*, or Attendance of his own Servants, and more directly under him, who had the various Names of *Apparitores* and *Palatini*, because they wrote in the Palace, besides the *Cæfariani*, *Privatiani* or *Privati*, and *Catholiciani*, to whose Ministry or Under-Service the *Domestici* or *Patrimony* of the Prince, and Estates falling to the *Fiscus* did belong. For of the Revenues that arose from his Lands, and the Charges upon them, and the Sales made of them they took an Account, as also of forfeited Estates, and other Matters relating the same way. Therefore in Case any Cloths, Gold, Silver or Slaves belonged to the Emperor after this manner, these *Palatini* could not buy them, nor chaffer among themselves, left by the Familiarity supposed to be amongst them, and the Friendship thereby contracted, any Partiality might arise, and by that, Detriment to the Prince. And this *Officium* had its *Primicerius* and *Secundocerus*, who had the Charge of the Writings and Accounts. The whole *Officium* was divided into four several *Serinia*; each of which had its *Primicerius* or *Primicerius*, to whom *Theodosius* the Younger, gave the same Privileges, as those belonging to the *Comes Largitionum* enjoy'd; that they should have the Dignity and Honour of *Exconsulares*. Concerning them, as also the Ensigns of the Office of this *Comes*, which, as of the other *Comes Largitionum*, were, besides the Faces of Princes, Baskers of Coin, and other things fuitable to his Office; the Reader may consult, if he please *Pancirolos*, and from *Gothofred* may have an account of such Persons, as from the Laws of *Theodosius* his Code, appear to have executed this Place, as other Catalogues of the great Officers of the Empire.

79. We have at length done with the *Illustrious* Officers of the Court, as well as the Country; if we but dispatch two remaining, which were, the *Comes Domesticonum Equitum*, and *Comes Domesticonum Peditum*. Besides the *Vexillations* of Horse, the *Legions* and *Auxilia* of *Palatine* Foot, anciently called *Prætorian*, there were yet also certain Horse and Foot which had as well as they, the Style and Title of *Prætorian*: But more properly and peculiarly were called *Domestick Protectores*, first brought up by *Gordian* the Younger, and by the later *Greek* Emperours called *Spætararii*.

They received more pay than others, but never went to the Wars, the Design of them being only to protect the Prince his Person, and be near about him. They were elected out of the seven *Schole* of the *Armenians*; one of this Number was *Ammianus Marcellinus*, the Historian, being *Protector* to the Emperor *Constantinus*; and some write, that *Dioclesian* was *Comes Domesticonum*, at the time of his Election. Amongst these *Domesticks*, the first ten, after the *Primicerius*, were more eminent in Dignity, and received greater Pay than the rest, being of the Title of *Clariffimi*. After the *Comes*, the next was called *Tribunus*, and was of the Degree of *Speftabilis*, whom followed the *Primicerius*, and then the *Secundocerus*; who dying within the year, his Heirs, not only received the Profits of that year, but also, if before his Death he had succeeded as *Primicerius* of that year, they were permitted also to receive that Revenue. Moreover, such as dyed of these *Protectores*, were succeeded by their Sons; who, though not of Age to bear Arms, were admitted to the Pay of four ordinary men. Those fifty that most deserved for their Strength and Piety, next the ten, carried the *Labarum*, or Banner of our Saviour, each in his Turn, and in the Title or Dignity of *Clariffimus* were equal to them, being also styled *Præpositi Laborum*. They were daily in waiting, and every day permitted to salute the Emperor, or as the Phrase was, to Adore the Purple; which being their constant Practice, to Adore the Purple came to signify as much as to be admitted into their Number; and besides, they were allowed to kiss the Cheek of *Præpositi Laborum*, or *Præfidi Prætorio*, which they all was not indulged. The Advocates of the *Fiscus* might every year present two to succeed such of these *Domestick* Horse, or Footmen as died, on certain Conditions: for this *Comes* had Fees from them

337.

De Comite Sta-
buli, vel Sacri
Stabuli, vide
notam Nauti-
on.
Digitationem
Cod. Theod.
ubi etiam de
Græcis qui agi-
tatis.

Vide L. ult. de
Palatinis &c.
Cod. Theod. lib. 6.
Tit. 30.

Domestick Pro-
tectores, & Pri-
ncipis Militi-
um, attamen
Domesticki & no-
dis Protectores.
Ritus diffinitus
diagnosico loco
habitis, & Pro-
tectores presen-
tibus; famili-
aribus enim
principis mili-
tibus, vide
Comm. Gotho-
fredi in L. ult.
de Præpositis
Laborum, Cod.
Theod. lib. 6. Tit.
25. Sidelibus
com. Com. lo-
de Domestickis
Prætoribus
lib. 6. Tit. 24.
Vide Andrieu.
Vite Constanti-
ni lib. 2. c. 8.
ubi foris dicit
de Præpositis
Laborum pro Præ-
fidi Laborem.

Domestick
Protectores, and
their comiti.

8. 2. them in larger measure, and from others that were admitted into these Places. A.D. 337.
These *Comites Domesticonum* sometimes supplied the places of the *Magistri Militum*, and were sent against the *Barbarians*. We had almost let them at the Degree of *Speſtabilis*, because in the *Notitia* of the Dignities of the *Codex Theodosius*, they are so placed; but in the *Notitia* of the Empire they have the Title of *Illuſtris*; and that of the *Codex*, though at first it expreſſeth that this *Comes* is ſtyled *Clariffimus*, yet adds, that in other Laws he is joyned with *Illuſtrious* perſons, as the *Prefectus* and *Magiſtri Militum*, and is ſet before the *Prefectus Cubiculi*, the *Magiſter Officiorum*, the *Queſtor*, *Comes Sacrarum Largitionum*, and *Rei Private*. But in the *Notitia* of the Empire, he is placed after all theſe; although, as the other tells us, he was with them privileged from ſending Soldiers to the Wars. And ſo now we have done (to be ſure) with the *Illuſtrious* Perſons, of which *Panciroli* gives you this Catalogue, as to the *Eastern Empire*, viz. three *Prefecti*, two *Prætorii*, and one of the City; fix *Magiſtri*, viz. five *Magiſtri Militum*, and one *Magiſter Officiorum*; four *Comites*; viz. *Largitionum*, *Rei Private*, *Domesticorum Equitum*, & *Peditum*; one *Prefectus Cubiculi*, and one *Queſtor*; in all fifteen Perſons.

Fifteen Illuſtrious Perſons in the Eaſt.

Perſons of the Rank of *Speſtabilis*; as,

The *Cæſtreſis*.

Cæſtreſis.

Pædagogia.

The *Primicerius Notariorum*.

The greater *Læterculum*, of which he had the Overſight.

80. Of thoſe of the Rank of *Speſtabilis*, which follows that of *Illuſtris*, the *Primicerius Sacri Cubiculi* is firſt named in the *Notitia* of the Empire; concerning whom, and the *Decani* under him, who Dressed the Emperour, and ſerved much in the ſame manner as our preſent *Grooms* of the *Bed-Chamber*, we have already ſpoken. The next in order to him was the *Cæſtreſis*, as the ſaid *Notitia* calls him, or the *Comes & Cæſtreſis*, or *Comes & Cæſtreſis Sacri Palatii*, as the *Notitia* in the *Code* finds him Cited in the Laws. This Perſon had the overſight of ſuch as Waited on the Prince out of his Chamber in the Palace; ſuch as belonged to his Pantry, Cellar, or his Table. In the days of *Alexander Severus* the Emperour, and before, one of the *Liberti* had the Management of the Prince his Table, by the Name and Title of *Tricliniarcho*, to whom at length ſucceeded this *Comes Cæſtreſis*. Such as under him belonged to the Table, were called *Menſæ*, *Menſæ Miniſtri*, *Minifteriani*, and, as he, *Cæſtreſiani*; either becauſe they were wont to live in the Camp with the Emperour, or, as the Souldiers had a ſort of Service in the Camp, ſo thoſe that Attended in the Palace were alſo termed a *Militia*; and more Perſons were ſaid *Militare*, than thoſe that ſerved in the Camp; the word being in a ſenſe transferred both to Palatine and Religious Services. At firſt, they had Diet and other Neceſſaries found them, but this at length was turn'd into Money. The *Pædagogia*, or Pages, Boyes who wore Purple *Calige*, or Hoſen, the *Notitia* ſets under the Command of this *Comes*. It was his Duty alſo to look to the Buildings, Statues, and Ornaments about the Court; and by his Direction Walls of Cities were Repair'd, Caſtles built, as alſo Places for Administration of Juſtice: Bearing in his hand a Golden Rod, as the Badge of his Office. He, & Chief Gentleman-Uſher, walked before the Emperour. He might be preſent at Meals, and had the privilege to Adore the Purple. This is the Office, whom the Authors of the *Byzantine* Story commonly call *Eupolates*; and thoſe of later, or the laſt days of the Empire, Overſeer of the Tables; who uſed the ſame Cap and Veltments with the *Logotheta Generalis*, the Succellor of the *Comes Largitionum*. He had a ſmall *Officium*, or Attendance for keeping Accounts of Diet, and of the Utenſils and Plate belonging to the Tables. Concerning which, ſee *Panciroli*, as alſo his Conjectures concerning the Enſigns of his Office; which yet are not called *Inſignia* in the *Notitia* of the Empire, (as he obſerves) having not this Word ſet above them, as neither above thoſe of *Speſtabilis*, nor *Clariffimus*, who follow (as the other of the *Illuſtrious* Perſons have) although their Arms be alſo placed in the Book. The Reaſon (as he thinks) might be this, that when they were abroad, they had them not borne before them, as the *Illuſtrious* had, but only drawn in their Commiſſions, or painted in their Court, to put them in mind of their Duty; as the Book of Mandates (or Inſtructions) which was always near the Bench.

81. After him, now next in the *Notitia*, follows he who had the Charge of Reſigning all the Dignities and Offices in the Book, and this was the *Primicerius Notariorum*. Formerly a Catalogue of all Magiſtrates, Souldiers and Governours was written and kept by one of the Emperour's Free'd men, call'd *Procurator ab Ephemeride*, & a *Mandatis*, who moreover gave out Orders to them. Afterwards this Employment was given to *Notaries*, dignified with the Title of *Tribunes*, who regiſtered all that were prefer'd by the Prince to Dignities, in the greater *Læterculum*, which was a Volume that contained the Names of all that enjoyed any civil,

or

ſect. 2. or Military Dignity. The Arms of their Offices, and their Salaries, with the Commiſſions granted to Magiſtrates, and the Mandates, or Inſtructions of the Prince, as alſo the ſeveral *Scholes*, and ſuch as ſerved in the *Numeri*; with their Symbols. It had it's Name from the reſemblance which in Shape and Figure it bore to a Brick, and indeed, together with the leſſer *Læterculum*, comprehended well nigh all the Dignities mentioned in the *Notitia*; thoſe of the *Largitiones* & *Rei Private* excepted; and certain Places of Magiſtracy regiſtered in the ſeveral Offices of *Memoria*, *Epistolarum* & *Libellorum*. This Book was managed by the *Primicerius Notariorum*, and his Scribes, or Clerks call'd *Tribuni Notarii*; becauſe they equal'd *Tribunes* in Dignity, and from the Notes they uſed in their Writings. Some write they were firſt inſtituted by *Gordian* the Younger. The Fees they receiv'd from Officers for their Commiſſions were very conſiderable, forty or fifty *Aurei*, according to the Rank and Quality of the Place.

Under him Three ſubordinate.

Their Employment.

Three Ranks of them.

The three Magiſtri of the *Notarii*.

82. For they made out Commiſſions to the Magiſtrates of Provinces, and the Cities, and regiſtered their Names, with their Stipends and Allowances; of the *Magiſtri Militum*, together with the *Legions*, *Cohorts*, *Auxilia* and *Vexillationes*; as alſo their Commanders and Pay; thoſe of the *Caſtra* and the Souldiers of the Limits excepted, who belonged to the leſſer *Læterculum*, and the *Scriniaria Memoria*. And beſides theſe, they kept the Names of ſuch as ſerv'd in the ten *Scholes*, of whom many continually going in and out, they were bound, every four Months, to make new Lifts, or Muſter-Rolls; yet the eleventh, or that of the *Agentes in Rebus* was Regiſtered by thoſe of the *Scriniaria Memoria*. The *Primicerius*, who by ſome is ſtyled *Prototribunarius*, continued two years in his Office, and was then ſucceeded by his Aſſiſtant, or the *Secundocæſis*, as this by the *Tertiocæſis*, and the *Tertiocæſis* by him they call'd *Quartocæſis*. The *Primicerius* read, as did the *Proconſul* in the Senate, ſuch Edicts as the Emperours had made, which by a Law of *Theodoſius* ap- pears; and being out of his Office, was graced with the Senatorian Dignity, and the Honorary one of *Magiſter Officiorum*, being equal in Place to a *Proconſul*, if he never roſe to the Honorary one of *Magiſter*. Of the *Notaries* under him there were three Ranks: ſome being call'd *Tribunes* and *Notaries*; others *Domeſticks*, being *Secretaries* to the Emperour, whoſe Secrets they wrote; and below theſe was an inferior ſort, though call'd *Tribune-Notaries*; yet it ſeems not equal to the other, who had the ſame Place and Reſpect, as *Palatine-Tribunes*. The firſt ten, after the *Primicerius*, were privileged from Quarter at *Conſtantinople*, and enjoyed the Dignity of *Vicars*, and the *Domeſticks*, or Secretaries were the Fellows of *Conſulares*. Laſtly, it appears that none were received among the *Tribune-Notaries*, but ſuch as had before received the Title of *Egregius*, and that they were made of the *Primiceriarii*. They went girt with a Girdle, as Souldiers were wont to do.

83. Now, at length follow the Maſters of the three *Scrinia*, or Offices, for by *Scrinia* are meant Offices, Cabinets, or Rooms, wherein ſhort Records, Edicts, Letters, Papers, and other Matters relating to Records were kept. Theſe in particular were, the *Scriniaria Memoria*, *Epistolarum*, & *Libellorum*: the chief Officers in whereof were, in Contradiſtinction to him of the *Læterculum*, ſtyled *Magiſtri*, not *Primicerii*; as thoſe that were next them, at this time, were termed *Proximi*, and not *Secundocæſis*, nor *Tertiocæſis*. To theſe Offices *Auguſtus* gave Original, by the Advice of *Mecænas*, out of the Rank or Dignity of *Equites*, by Reaſon of Multiplicity of Buſineſs, choſe certain Perſons to take Records of ſuch Judgments as paſſed, ſuch Letters as were written, and other Matters. Afterwards ſucceeded others by the Title of *Magiſtri Scriniarum*, in Dignity of the Rank of *Speſtabilis*, and in place equal to *Vicars*: as to their Immunities, freed from all Burthens, both Civil and Perſonal, together with their *Proximi*, and as to Profeſſions, ordinarily Lawyers. At firſt they continued three years, then two, afterward but one, in their Office; and quitting them were made *Comites of the Conſistory*. For in all Employments it was a Rule, to ſuffer none to continue long in place; both that Room might be made for other deſerving Perſons; and ſuch as were employ'd might not by long Continuance in any Office, be more inſtructed, and tempted to do amiſs. Next to them were the *Melloproximi*, or *Futuroproximi*, who ſucceeded the *Proximi*, and were of the Style and Dignity of *Clariffimus*, with all the reſt that followed, as far as the *Exceptores*. They ſupplied the Place of the *Proximi*, and were in the Room of the *Tertiocæſis*; of whom he that next followed bore the Name of *Adjutant*. The Number of theſe *Scriniarii* was ſetled, and Conſtant: for in the *Scriniaria Memoria* were fixty odd Perſons, and in the reſt thirty four a piece. Of theſe ſome were *Exceptores*, ſo call'd from taking Notes, and recording ſuch things

A.D. 337.

L. 33. de *Notariis*, & *Col. Th. lib. 11. Tit. 10.*

Scrinia diſtinguiſhed by theſe names, viz. *Memoria*, *Epistolarum*, & *Libellorum*; in quibus *Commodatarii*, *Edicti*, *Epistolæ*, *Libelli*, *diſcretiſſima* *monumenta* clauſtrabantur. *Panciroli*.

Sed de his Scriptis & Scriariis, item Proximi, vide ſupra in Tit. lib. 6. Cod. Theod. Tit. 25. de Proximiis, de Proximiis, Conſiliis, &c.

Sec. 2. as passed before the Prince, the *Præfidi Prætorio*, or *Quæstor*. Under these was another fort, which wrote, and were Candidates for the next Place in Ordinary which fell, into which when they came, they paid two hundred and fifty *Solidi* for their Admission, to the *Proximus*, and twenty, or fifteen more to the *Melloproximus*; which afterward by a Constitution of *Anastafius* was transferred upon their Heirs, for this is observed concerning all the *Palatine Militia*, or those that served in the Court, that generally such as came in, at their Entrance paid certain Fees to the Seniors, or Principal of the Office. The first fifteen, in esteem greater than the rest, received also great Allowance from the Emperour; and at first in Kind, but it was afterward turned into Money. The *Scriniarii*, if in the Provinces, were exempted from the Burthen of Quartering, and as a Mark of their Employment, they wore a Girdle. For the Callock and Girdle at first seem to have been taken from the Souldier, and so to have passed into use, both with *Civil Officers*, and *Ecclesiastical Persons*; as in other Countries, though not in *England*, the Custom is still observed, both by Lawyers, and others. *Pancirolos* observes, that *St. Ambrose* calls these *Scriniarii*, *Officia Palatina*. In *Civil* and *Criminal* Matters they were judged, as all their Relations, by the *Magister Officiorum*, and paid lesser Fees than others. Although they of the *Scrinium Memoriae* be properly called *Memoriales*, yet sometimes the rest also go under that Name. The Places of the Principal in those Offices were so good, that *Procopius* writes them to have been better than an hundred *Centenaries* of Gold yearly.

84. But that we may touch a little upon the Particular Offices; and first, as they lye in the *Notitia*, upon the *Scrinium Memoriae*. Princes of old, were wont to have such about them, as took Notice of those, who in War did gallantly demean themselves. These writing down their Names, and putting the Prince in mind of them, to Reward their good Service, had from the Effect of their Office, the Name of *Memoriales*. But these by Degrees grew out of Request, and others came in their Rooms, whose special Charge it was to look to the lesser *Laterculum*, wherein were Recorded the several *Præfidi*, *Tribunships*, and Command of the Forts lying upon the Borders. We say, it was their special and principal Care; for besides the lesser *Laterculum*, there were other Records also kept in this Office, wherein in the Memory of many other Matters was preserved. Those that dealt in the *Laterculum*, under the Inspection of the *Quæstor* of the Palace, are called *Laterculenses*; the rest *Memoriales*. The *Notitia* tells us, that the *Magister Memoriae* (besides the Charge of the *Laterculum*) did dictate Annotations, grant Commisions for Postage, and answer Petitions. These Annotations were, as *Pancirolos* interprets the Word, short Notes of such things as were ordered or confirmed in the Prince his Name; who when he answered any thing by word of Mouth, the *Magister* dictated the Substance of what he said, to the *Proximus*, who took short Notes of it; or else the *Memoriales*, who from this taking or receiving had the Name of *Exceptores*, being in Quality something above the rest. In this *Scrinium* or Office were also kept those Writings which the Prince subscribed, for Approbation and Admittance of the *Agentes in Rebus*, and *Palatine Officers* under Command of the *Comites Largitionum*, and *Rerum Privatarum*; and probable it is, that by those *Memoriales* were Recorded and kept the Names of the Places, Towns, or Stages of the Postage, or *Cursus Publicus*. That Catalogue, which goes under the Name of *Antonine* his Itinerary, wherein are reckoned up the Mansions, Towns, or Villages in which the Horses were kept, being of this Nature, and probably kept in this Office; out of which the Licenses to use it issued. And as likely it is, that the Roll and Description of the Engines of War, and the Pinaces and Vessels, which serv'd on the several Limits was here also preserv'd to perpetual Memory: upon which Accounts the Officers were not unfitly termed *Memoriales*. Of the sixty four Persons, which served in this Office, twelve were *Assistants* of the *Quæstor* of the Palace, and seven were called *Antiquaries*; four *Greek*, and three *Latin*; who looked to the Records, and copied out fair such as Age had begun to deface. The rest were *Exceptores*, or more ordinary Clerks.

85. The Second *Scrinium* or Office, was that of the *Magister Epistolæ*. In the time of *Augustus* there seems to have been no such Officer; for he wrote or dictated his own Letters, which afterward he left to *Agrippa*, and *Mecænas*, to be mended, or altered, as they should find expedient. But not long after was brought up this sort of Secretary, called *Magister Epistolæ*, who receiving from the Prince his Mouth the Substance of what was to be written, dictated the Letters unto Clerks. For *Nero* had this sort of Office; and *Suetonius*, who wrote the Lives of the *Cæsars*, was *Magister Epistolæ* to the Emperour *Adrian*. The *Notitia* tells us, that

The *Scrinium Memoriae*.

The *Scrinium Epistolæ*.

Sec. 2. that this *Magister* dealt in the Embassies of Cities, Consultations, and Petitions. At the Audience and Conference with Ambassadors of Kings or Cities he was present, that he might fit the Answers he wrote according to the occasion. But these Messages were first Debated in the Auditory of the *Præfidi Prætorio*, without any Determination; and being Reported by those of this Office in the Consistory, they then wrote Answers according to the Emperour's Resolution. To such *Præfidents*, or Governors of Provinces also, as Consulted the Prince concerning any doubtful Matter of Fact, they wrote Answers as he directed. In Appeals from *Illustrious Persons*, or *Speciales*, they wrote the *Alia*, or what passed; as also in Appeals made from *Duces*; and from the Records they wrote, got the Name of *Prædicarii*. This *Magister* also Answered to the Petitions of Cities, as the *Magister Libellorum* to those of Private Persons. The *Tribunships* of *Legions*, which were Dispatched by way of Epistle, went through his hands: The Commisions of Persons *Illustrious*, and of the Dignity of *Speciales* also. In conclusion, all Letters of the Prince written of course (as for Secret Matters, it might be otherwise) he Dispatched, and thence he and the Under-Officers reaped no small Gain and Advantage. After him, next in order were the *Proximus*, and the *Melloproximus*, as in the *Scrinium Memoriae* was observ'd. Thirty four served in the Office, of whom Seven waited on the *Quæstor*, with the Title of *Assistants*; and thence passing to the Places of *Laterculenses* in the *Scrinium Memoriae*, had liberty to tell their former of *Assistants*. Besides this *Magister*, the *Notitia* mentions another of *Greek Epistles*, whose Work it was to Dictate such in *Greek* as in that Language were to be sent abroad, or being written in *Latin*, to Translate them into that Tongue.

86. Next follows the *Magister Libellorum*, or Master of Requests; for *Libellus* here signifies a Petition. *Augustus* himself Dispatched and Signed Petitions; but his Successors, to ease themselves of the burthen, brought up this Officer; yet so, as that a long time they subscribed them themselves; till growing weary of it, this their Secretary had several *Scriniarii*, or Clerks, who took from the Prince his Mouth (or from the *Magister*) and wrote his Answers. But the *Notitia* tells us, this *Magister Cognitionum* & *Preces tractat*. *Cognitio* signifies the Debating and Examining of the Cause when Council was heard. For when an Appeal lay to the Prince, from one he had Delegated to Hear a Cause; the *Præfidi Prætorio in Comitatu* (he in Waiting) or the *Quæstor* of the Palace heard the Matter, which was managed by this *Magister*, and his *Libellenses*, or those of the Office, which in the time of the *Notitia* were Thirty four in Number, who took the Process in Writing, as the *Epistolares* did, when Appeals came from Judges of the Degree of *Speciales*. They also were Registers of the Court, at the Tryal of any *Illustrious* Person before the Emperour: as also, when any Matter in the City was referred by him unto Delegates. Whereupon *Justinian* (as *Pancirolos* observes) calls this *Magister* by the Title of *Magister Cognitionum*, and *Antigrapharius*, (the same with *Referendarius* in the *Notitia*) and this Office *Scrinium Libellorum* & *Cognitionum*. Besides this, they of this Office gave out the Approbatory Letters or Commisions, by which (being subscribed by the *Magister*) the Prince Approved of the *Magistri Militum*, the *Comites* and *Duces* of the Limits, and several of the *Palatine*, or Court-Officers; so that their Places must needs have been very Profitable. Of the Thirty four, Seven also Attended as *Assistants* upon the *Quæstor*, of his own Choice; and afterward came to be *Proximi*, and *Melloproximi*. The Master was most commonly a Lawyer, and often rose to the Dignity of *Præfidi Prætorio*. Such were *Papinian*, *Aurelius*, *Arcadius*, *Charisius*, *Paulus*, and in *Justinian's* time, *Constantine* the Compiler of the *Pandects*, who had been Advocate in the *Præfidi's* Court, who also Exercised the Office of *Magister Largitionum*. These *Libellenses* were girt with a Girdle, as the Badge of their Office, and were judged as the other *Scriniarii*, by the *Magister Officiorum*. As for the *Magister*, neither he, nor either of the other two preceding Masters, had an *Officium* of their own, or *Attendants* allowed them; but, out of the Office it self, took such *Assistants* as they pleased.

87. Now, last of all, besides these three of the Masters, there was a fourth *Scriniarius*, or Office under a *Comes Dispositionum*, as he is called; of which, though the *Notitia* makes no mention, yet *Pancirolos* thinks fit to add it, as being (he tells us) frequently mention'd in other Books, though at the time when the *Notitia* was written, the *Magister Epistolæ* might do the Work; and from the Prince his Disposing many things by him, might be called *Magister Dispositionum*. But

The *Scrinium* of the *Comes Dispositionum*.

SECT. 2. In this *Scrinium*, at other times, had neither a *Magister*, nor *Proximi*, but instead of them, a *Comes*; and such as Managed it under him were termed *Referendarii*, as *Pancirolus* thought. They represented the Desires of Suppliants, and Consultations of Judges (as he believed) to the Emperour, which Representation was called *Relatio*, and returned Answers to the Consultors, which were termed *Mandata*, as well as *Responsa*, and also *Dispositiones*. Being few at the first, their number increased to Eighteen, by permission of *Justinian*, who yet reduced them at length to Eight. Their *Comes* had all *Alifianis*, and they were all obliged, as all other *Scriarii*, to serve twenty years, and at the end of their Service, they were Adorned with the Honour of a *Consularis*; and the *Comes* himself Preferred to be one of the Prince his *Consistory*, or *Council*. This is the Sum of what *Pancirolus* hath written concerning the *Scrinium Dispositionum*, and those that Served in it, whom yet *Gothofred* accuseth of Error herein, that he Confounds them with the *Referendarii*: And he Affirms, that by *Dispositiones* here are not meant Constitutions, Sanctions, Pragmatics, Edicts, though these elsewhere come under the general Name of *Dispositiones*, but other Acts of the Prince respecting the Commonwealth, besides the Sanctions of Law, Annotations, Answers to Messages, Embassies, Consultations, Petitions, or Cognitions, all which were Dispatched by the other three *Serinia*, or Offices, viz. *Memoriae*, *Epistolarius*, & *Libellorum*. What then? Why in these *Dispositiones* were most commonly the Provisions of the *Ammon*, *Dispositiones* of the Emperours Journeys and Expeditions, concerning the Creation of Magistrates and Publick Officers, and Matters which the Prince had proposed to himself to be done. That *Dispositiones* are taken in this sense, he proves out of *Lampridius*, *Capitolinus* and others.

88. He concludes that (as a Law expressly speaks) in this *Scrinium* was kept the *Norma* and *Series* of the Emperour's Dispositions; or what was Disposed in the State by him, according to the Emergency of Affairs; so as what in a manner he daily Acted, Designed and Disposed, were therein contained, their number arising to so great a multitude, that it was requisite there should be a peculiar Office for them; as also a peculiar *Comes* or *Magister*. But he proves that the *Scriniarii* of this Office or *Scrinium*, were of a lower Degree than those of the other three; because in the other, Learning was required to Form the Constitutions, Answers and Letters of the Prince; but in these, only Integrity and Industry; and therefore, as it is evident by a Law of *Gratian*, that the Chief Officers of this *Scrinium* were also called *Magistri*, which some have denied; so as plain is that which he observes from the same Law, and others, that these *Comites*, or *Magistri Dispositionum*, though in Name they might agree with the Masters of the other *Scrinia*, yet in Degree were inferior to them, being joined, not with Them, but their *Proximi*, with whom they received, when they went out of their Offices, the Honorary Dignity of *Vicars*. And thus we have run through the several Offices of the *State*, and thereby done so serviceable a part to the Reader, as to give him a Prospect of the Policy of the Empire; by which means he may better understand not only the Government, but the Histories, Laws and Customs of these Ages. But he must know, that what has been said of these several Magistrats, hath relation chiefly to the *Eastern* Empire, which in the time of the *Notitia*, and especially afterward, was most considerable; That of the *West* shortly after failing, which was a good reason why *Pancrolius* chiefly insisted upon that of the *East*. I must confess, some may judge this too tedious a course we take; but yet, methinks, there is more till to be added; one Subject yet remaining, without which, neither this Design, nor the Reader's knowledge of these Matters, can seem to look toward Perfection. And that is, a short Account of the Municipal Magistrats, or the Government of the Cities and Towns Corporate; which we shall also Dispatch with both Brevity and Clearness we can.

89. The Roman Prince his Task and Employment being to look to the Government of the Provinces, by placing therein such Magistrates as he thought convenient, and to take care of the state thereof, left the Matters of the particular Cities to the Management of their own Officers; contenting himself with the Jurisdiction and Empire over the People, and the Tributes he received from them. Therefore had each Corporation a Court, or *Senate* of its own for their Government, and Provision of all Necessary Things; Creation of Magistrates, due Management of Publick Lands or Moneys, looking to their Publick Haw-

A. D.

337.

*Ad L. i. lib. 6.
Cod. Th. Tit. 26.
de Proximis, Co-
mitibus, Di-
stas. etc.*

*Clarissimos vi-
ros, Proximos
Scriniarum &
Magistros Dis-
positionum, Vi-
cariorum Ordi-
ni copulamur,
&c.*

Sec^t. 2. *ses, Baths, and Forums*; Repairing of Ways, equal payment of Tribute, and other Matters relating to the Common good. All Cities within the *Roman Pale* had their peculiar *Senates*, the two Capital Cities *Rome* and *Constantinople* excepted, which the Prefence of the Prince eased of that Trouble, they having *Prefects* (as we have seen) of their own, who Discharged the Offices of other Inferiour Magistrates, or *Curators*; and the great *Senator* of the Empire there sitting, there was no need of the other lesser and lower Courts. These two were therefore Paramount, and of condition surpassing the nature of these Inferiour Corporations. All other Cities looked upon themselves as Graced and Privileged by having these Courts and Governments; and some there were, which, for their Revolving to *Annibal*, after his coming into *Italy*, were deprived of them, and Disfranchized, as *Capua*, *Puteoli*, *Atalae*, *Fundi*, *Formie* and others, which thereupon ceased to have their *Municipal* Officers, but received Governours from the People of *Rome*, or the *Praetor*, for many Ages; till by the Emperour they were Restored to their Courts, Judges, and Magistrates. But not only Cities (*Civitates & Urbes*) had their *Senates*, or Courts, but also Towns (*Oppida*) Free Burroughs, (*Municipia*) nay Villages (*Vici*) certain Mansions (*Mansiones*) and Forts or Castles (*Castella*) have had theirs too.

190. The Senators of these Courts are sometimes called *Curiales*, *Municipes*, and otherwise, but especially *Decuriones*; in respect of their Care of the Publick, they were termed *Fathers*, the *Nerves* and Strength of the Cities, styled Eminent, and joynd in Degree and Reputation with the *Honorati*; the other Inhabitants beneath the *Roman* Senate, by the Example of which, the Sons of these *Decuriones* followed the Condition of their Fathers, and their Names were written in the Table called *Album*, as those of the Senators were. First were written those that Excelled in Dignity, and then others, according to their Seniority in the Place; and such as had Sons were preferred before such as wanted. Further, as at *Rome* he was made *Prince*, or Chief of the *Senate*, who was more Eminent than the rest, in respect of his more Honourable Achievements; so was he that had passed through all Offices in the City, made Chief of the Court. And as at *Rome* once there were two Orders or Distinctions of *Senators*, viz. of *Illustrious* Persons, and those styled *Clarissimi*; so amongst these *Decuriones*, such as had passed through all Employments, were of a Principal Rank, and were termed *Principales*. They were more or fewer according to the Quantity of the Place they Inhabited; sometimes Seven, Ten, or Twenty, and called *Isoisproiti* in *Greek*, as the Honour it self *Isoisproitia*. At *Alexandria* indeed there were but five *Summates*, and scarcely fewer anywhere else. Every one of them, according to his Place, was first asked his Opinion, as was observed in the *Roman* Senate.

91. But for a more distinct Knowledge, how they came to the Dignity of *Decuriones*, we must know, that they were either such from their Fathers, or Promoted. The Sons of such Persons, as we said, followed the Condition of their Fathers, whether Adopted, or born of Lawful Matrimony; for as for the Spurious Brood, it neither enjoyed any such Privilege in this, nor any other Matters. And only by the Father's side had they a Title to this Degree, not by the Mother's, except in the Court of *Antioch*; in which City this Right, by the Indulgence of Princes, was allowed to such as were born of a Daughter of a *Decurio*, though their own Fathers never arose so high. Here *Pancirolius* tells us from *Ulpian*, that they could not come to any Government till the five and twentieth year of their Age; which, though but begun, was to be taken and esteemed Compleat; though as to other Offices, the twenty fifth ought to be fully ended; according to which opinion of *Ulpian*, *Michael Hospitalius*, Chancellor of *France*, in the Year MDLXIII at *Rouen*, proved *Charles* the Ninth, the *French King*, at the entrance of his Fourteenth Year, to be of Age or Puberty. But it appears from a Law cited by *Gothofred*, that the Sons of these *Decuriones*, though but of Eighteen years of Age, and as yet not Emancipated or Loosed from the Paternal Power, were obliged to undergo the Offices or Employments of the Cities: and such as were thus born, as *Pancirolius* himself Notes, were, though under pretence of Religion they had chosen the *Monastical* Life, drawn back again, and forced to Publick Service. So much for them whose Decent cast both this Honour and Burthen upon them. Others were, upon Vacancy of Places, chosen by the Court; and the *Plebeians* or Citizens were, though unwilling, compell'd to Accept of the Charge, if they had not a reasonable

$$\frac{7}{AD}$$

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*Quemadmodum
habuit Roma
tribus Tribuni
Plebii, Ius Rerum
Cognationum
res, Ius Con-
a-tum, ite quoque
e-pro Tribunis
n-Plebis habuerunt
on Defensores,
de iure & suos
d-Curatores : et
pro Consulibus
Magistratus
est Duviribus
a-pro Senatu G-
vines, fuit C-
a-dies. Vide E-
nd thofred. in L.
ck de Exhiben-
at, & translat-
re, reis. Co-
e. lib. 9. tit.
e Tit. 11.
ed Parit. lib. 12
d. Cap. Torod.*

Sect. 2.

it had no *Decuriones*, so none of the other fort, but from *Cæsar* received a Judge, who was called the *Juridicus of Alexandria*, and exercised all the Powers belonging to the *Duumviri*, with whom he is often compared; to him, and also to them Power of assigning Tutors being granted: but herein his Authority exceeded theirs, that he had Cognizance of the greatest civil Causes, whereas the lesser fort were only triable before them. This seems to have been a Reason, because He was created by the Emperour, and they only by the Corporation; but *Severus* put an end to this Difference, by introducing *Decuriones* also into this City. The *Duumviri*, by way of Eminency, are in the Laws termed *Magistratus Municipales*, and simply *Magistratus*. The same Form was observed in creating them, as in chusing the *Decuriones*, only they were nominated two or three Months before they entered their Office; that in case they had just Causes to excuse themselves, others might be chosen in convenient time. If no fit Excuse could be alleged, though unwilling, they were compelled to undertake the Charge, and to give Caution for their just Administration. In old time they had *Lictors*, or Beadles, that went before them, but bore no *Fafces*, but only a Rod or Staff, as Virgins now. But this Custom was afterwards changed, and at length every where the *Fafces* came to be used. They wore also the *Prætoria*, or Robe with a Purple Border.

Their Authority.

96. But now in Reference to their Powers; they might be Judges in Causes to a certain Sum; but could not exercise those Authorities, which belonged more to *Magnum Imperium*, than *Jurisdiction*; as to restore one in *Integrum*, and other Matters: but they might take Caution of the Parties to traverse greater Matters before other Magistrates. They had Power also of making Records, or *Alia*, by which are meant the Entries of such things as were made before a Judge, either in pleading, or Matter of Proof, wont to be made in the Presence of three *Curiales*; but this *Justinian* would not have inserted into his Codes; and they might cause Distress to be made for Payment of Costs: they could chastize Slaves, and send away Fugitives to be punished by the Governour of the Province. Some say they had no Authority to convict free Persons; but others allege the Case of St. Paul and Silas to the contrary, who by the Magistrates of the *Philippians* were, both imprisoned, and beaten, and dismissed the Day following; as in the Acts of the Martyrs, many *Christians* are said to have been cast into Bonds by the *Municipal Magistrates*. They might assign Tutors, provided the Estate of the Pupil did not exceed five hundred *Solidi*; the Richer being referred to the Jurisdiction of the Governours of Provinces. They took Caution for Pupils also at their own Peril; for if the Sureties failed, They were to make it good. In some Cities they Manumitted, so as to make the Parties *Roman Citizens*; whereas others were but *Liberti*, or free'd men of *Latium*, or *Latines*. They contracted for, and in the Name of the Corporation, and recovered Moneys left to it, at their own Peril. These Troubles might well excuse them from being *Tutors*, or *Curators* to Persons under Age; and while they were Magistrates, they could neither sue, nor be sued. In some Cities, as is alleged, they might hold for five years together; but generally, as of other Officers, their Employment was but annual.

Defensor Civitatis.

97. Next after the *Duumviri* was the *Defensor Civitatis*, or Defender of the City, by the Greeks called *Syndick*; which was a single Employment resembling much the Office of the old *Roman Tribunes*, as that of the *Duumviri* did the other of *Consuls*. For of the *Duumviri* none could be made a *Defensor*, but he was created of some fitting and able Man amongst the other Citizens, being sometimes also styled *Defensor Plebis*. For his Work was, as his Title imported, to defend the common fort, and so also the whole Corporation from Injuries and Oppressions. In his Election the *Bishop*, *Clerks* and *Curiales* of the Place were concern'd; upon whom, by a Constitution of *Theodosius* it was incumbent, to make choice of the Person, who was afterward to be confirmed by the *Præfatus Prætorius*; having taken his Oath to Act in all things, according to Law; and the City for his Commission, if he was of the better sort, paid four, if of the inferior, three *Solidi*; for he himself was at no Expence, receiving no Reward, or Salary, except such was the particular Custom. His great Work was, to decide pecuniary Causes amongst his Countrymen, and to be Judge of the ordinary fort in their Suits and Quarrels; though in old time his Authority in such Cases reached, as high as fifty *Aurei*, wherein the Parties were bound to come before him, and not before the *President* of the Province, except by way of Appeal. Lighter criminal Causes he might hear, but his Animadversion upon the greatest Offender could only extend to Imprisonment, and then sending him, in the Name of the Accuser, to the *Præfatus*, to be punished. Testaments, Instruments of Contracts and Donations were registred with him; and the

his Work.

How Elected.

A. D. 337.

Pancratius de Magistrat. Municipali. c. 2.

Nonnullis Agere res, quod Alia-
tis.

Sect. 2.

the Acts of such Processes, as were under his Cognizance, being taken by an *Exceptor*, that was sent from amongst the *Officium* or Attendants of the *President*, and afterwards transmitted to a publick Office called *Archæum*, of which there was a *Præfatus*, or Overseer, to take Care they were not spoiled by Dust, or any other way obliterated. To this *Defensor* the Care of keeping the Multitude in order was committed, as also of protecting it, and the Price of vendible things. He assisted such as collected Tributes, against those who neglected to pay them, and executed, as it were, the Place of the *President* of the Province in the Town. It was his Task to pursue and find out fugitive Slaves, belonging either to the Publick, or to private Persons. At first these *Defensores* continued in their Places for five years, but afterward the Term was limited to two, which expir'd, other Citizens succeeded for the same time.

The Sufceptor.

98. One of the most incumbent and Pressing Duties upon the *Decuriones* was, to see the Tributes duly collected; for which Purpose they made Choice of some one Citizen to collect or receive them, who thence had the Name of *Sufceptor*. He was chosen in the Court, much what after the same manner as the *Decuriones* themselves. One, or more named him at their Peril (for they were responsible for him in Case he failed) and the Record thereof being taken by the Clerk of the Court; he certified therein, both the Name of the Receiver, and Undertaker for him to the *President* of the Province. The *Sufceptor* of the Corporation (for there were,

His Office.

as we have formerly touched, other *Sufceptores* of the publick Revenue in the Countreys) might be chosen, either out of the Body of the *Decuriones*, or from amongst the *Plebeians*, (so they were termed) or inferior fort; but the Office was not reckoned amongst those they accounted Sordid. His main Work was, in the Presence of the *Defensor Civitatis*, to take an Account of every Mans Land, and what was owing, and then to demand and receive from every one the fiftieth part of Wheat, the fortieth of Barley, and the twentieth of Wine and Lard, which was sent to the publick Storehouses, and there kept by the *Præpositi*, or Overseers of them. He also gathered what Poll-money was due, or Money usually rais'd otherwise from Lands, and such yearly Sums as were imposed by the Prince after this manner. The Town-Clerk gave in an Account from his Office, what was due from each Person; and such as were behind, or negligent to pay, the Apparitors of the Court were sent to take it, and then they brought it to the *Sufceptor*, who gave a Note to him that paid it, wherein the Sum, the Cause of Payment, the name of the Party, the *Consul*, Month and Day were expressed. This was termed *Securitas*, and *Apocha*, as the Payment of Tribute it self *Collatio*, which though variously made, according to the several Nature and Customs of the several Provinces; yet all agreed in three certain Portions enjoyn'd by the Prince, at the first of *January*, first of *May*, and about the beginning of *September*; at which time the *Indiction* began. The Grounds of such as deferred Payment were forfeited to the Emperour, and sold. The Money gathered was committed to the *Aræarius*, or Under-Treasurer, (such *Pancratius* thinks to have been *Erasmus*, whom St. Paul mentioneth from *Corinth*, though Lawyers translate him *Administrator*, or *Curator*) who was chosen after the same manner as the *Sufceptor*. He kept it not long in his hands, but speedily transmitted it to the *Præfatus Thesaurorum*, or Treasurer of the Province, who sent it up to Court with all convenient Expedition. Such was the Employment of the *Sufceptor*, or Receiver, who only medled with such things as we have named, or Money (not with Cloaths) paid by the *Provincials* for every twenty, or thirty Acres of Land; for these were received by others. He held his Office for a year, except the Custom of the Place, or the Scarcity of men prolonged his Term unto two; neither could he undertake it again, till he had given Account of his former Administration. Every *Sufceptor* was bound to gather up, not only what was due within his own Year, but all Arrears; till at length, *Anastasi* eased the *Decuriones* of this Trouble, by ordaining in every City other Collectors of Tributes, called *Vindices*, who continued in Being till the Reign of *Justinian*.

Vindices.

The Procurator.

99. As the Prince had these his Officers in the Cities or Places corporate, for Collection of his Revenues; so the Corporations also, having Lands usually, Money, or Houses of their own belonging to their Body, had a peculiar Officer called *Curator*, or *Procurator*, *Logista*, and *Actor Publicus*, who took the Charge of them, and let them out, as was thought convenient; the usual Term not exceeding five Years. Such Money or Goods as lay in private Hands, he recovered, and procur'd the publick Buildings to be repair'd, being obliged to make good, out of his own Estate, whatever Detriment the Corporation receiv'd. He set a Price of

A. D. 337.

Quid Dicitur Publica Subceptor. re. Pleb. Gath. Fred. Comm. in L. 54. lib. 12. Cod. Th. Tit. 1. de Decurionibus.

Ad Rom. ult. Theophrastus à Platonibus qui vixit A. 300.

337.

Curator est is, qui pecuniam Reipub. & generaliter quicquid ad Civitatis rem pertinet, administrat; Græcè Logista, & non nunquam ab Imperatore dari solitus.

75

ZeroBills

Procyon
Metallorum

After or Sy-
dine.

Stationary
or,

Therapies

480

Assignments

337-

Vide Gotho-
red. Comment.
n. L. unic. Coe
thod. lib. 12.
tit. 14. de Ir-
archis.
Pancirol. de
Magistrat. Mu-
nicipalibus,
p. 18.

Limnarcha,
Græcè, Ποσειδών
Ποσειδῶν.

Señ. 2.
Tabularii.

others that went by the General Names of *Tabularii*, and *Scribes*: such were properly *Tabularii*, that kept Books of Accounts, and therein Entred such as paid Tributes; being, both they and their Sons obnoxious to this Service. Such as kept the Accounts of Tributes were also called *Logographi*: Those that were properly termed *Scribes*, and their Office or Employment *Scribitus*, were the Clerks of Courts, who wrote down what passed before the Magistrates and the *Dumviri*, or *Defensores Civitatum*. There were others known by the Name of *Consulares*, who under the *Magister Census* wrote, and kept the Publick Records wherein Testaments were proved; but especially was kept an Account of the Patrimony of each Citizen. The *Decuriones* were not to be compelled to this Employment, but having willingly taken it up, had not the liberty to lay it down at pleasure. At first the *Tabularii* were Publick Slaves, but afterwards it was ordained, that Free Persons only should be Elected.

Gymnasarche.

104. The Greeks were wont in Large places compassed with Galleries, to Exercise themselves; in Inner Chambers adjoining to Wath and be Anointed; and near to those Rooms were the *Exhedra*, where Philosophers met and Disputed; the Overseers of which Places had the Name of *Gymnasarche*. It was a Custom, that when Ambassadors came into Cities, they should be presented with Necessaries at the Publick Expence, for which a peculiar Officer was appointed, with the Name of *Xenoparchus*. There were *Camelarii*, who had the care of Camels, which carried the Baggage of the Army in Expeditions; as also others, who looked to the Conveying of Provisions and Souldiers clothes, which the Towns were bound to find. All which were Personal Employments, not obliging to any Expence, but only Personal Labour. For prevention of Fires, which ordinarily happen by Night, there were the *Nyctostrategi*. And for the Regulating of Publick Pastimes, Exercises, or Races, the *Agonoteta*, who had those that went with Rods before them, to beat away, and remove the Crowd, and thence had the Name of *Mastigophori*, though unwilling, compelled to this Personal Service. And lastly, from out of the Body of the *Decuriones*, were certain chosen, and termed *Legati*, being constrained to go as Messengers from the Corporation to the Prince, if the number of three Sons alive, or a Message sent on within two years before, could not Excuse them. At first, upon very slight Errands these *Legati* were wont to be sent, as, merely to salute the Emperour, which put the Cities to great Charge; but afterwards it was Ordained, that none should be sent but upon Necessary Business, and that to be, as such, approved by the *President* of the Province, who was obliged to Accompany them with his Letters, as the *Præfatus Pretorio* was to Approve the Message of the whole Province. None was compelled to undertake the Journey and Employment at his own Charge, but received a *Vaticum*, or Allowance termed *Legatium*; being first chosen by the City, and thereupon a Decree made and Signed by the *Decuriones*, which they called *Psephisma*.

How chosen.

105. The Custom was, for such to be employed according to his Place and Degree, the more ancient and honourable first, and then the rest in order downward, except the Greatness of the Affair required some of the better sort to be still employed. At the time of Legation they were not to enbroid themselves with Buffs, either their own, or of other Persons; and had the Privilege not to be sued, but in case they committed any Offence, they, or their Servants were punishable at *Rome*. They were allowed Carriages; and the *Legates* of the Provinces, publick Horfes. The number of the Messengers was not to exceed that of three. The Employment was personal, and could not be discharged by any Deputy, except a Son. Debtors to the Publick, and Infamous Persons, were not permitted to manage it. When the whole Diocese resolved to send to the Emperour, it was determined by the major Part of the *Primates* or Chief of the Cities. If the Province determined to send, the *Primates* of the Courts met in the *Metropolis*, at the Place where they were wont to assemble, and the Major part carried it, the Assent of the *Præfatus Pretorio* being obtain'd. When the *Legati* came to the Court, they were first heard in the Auditory of the *Præfatus Pretorio* then in waiting, and their Petitions were examined, but without any Determination; for afterwards their Requests were reported in Consistory by the *Epistolares*, and received such Answer as the Prince directed.

106. These were the Officers, and such was the Government of the Cities and Places corporate; which besides their Courts and Bodies for Government, had also several Bodies, and Companies of Artificers, as we here at *London*, which were privileged with Immunity from Personal Burthens. Of them some have reckoned up two and thirty, and others thirty five. The Names and Descriptions of which, the

A. D.
337.
De Tabulariis
vide annos
innotant. Gu-
thof, in L. 1.
de Tabulariis,
Logographis &
Consularibus,
Cod. Th. lib. 8.
tit. 2. Causa Te-
bularius cum
Tabulariis
committitur.

Señ. 3.

Some Know-
ledge of the
Policy of the
Empire neces-
sary for under-
standing the
Writers of
these Ages, and
this follow-
ing History.

the Reader if he please, may find in *Pancirolos*, and elsewhere. For we seem in this Description of the Policy of the Empire to have been too tedious already; but the Profit, and Improvement of the Reader seems also to have required it: these things being not commonly known, and few making it their Business to understand the State and Condition of those Ages whereof we write; chiefly because they imagine them Jejune and Barren, and that little can be said, or known of them. Without a moderate Understanding of the Nature of these several Officers, he can little benefit by perusal of the Writers of these Times, and much less Profit in the Study of the Imperial Constitutions. And so we return to our *History*; which will both give to, and receive from this *Apparatus* very much Illustration. For what we have said briefly, and altogether concerning the *Policy* of the Empire, will for the most part be particularly explained, and amplified, when we come to speak of the several Laws, as in time they were enacted.

A. D.
337.
Exactionibus
Artificum
lib. 13. Cod.
Th. Tit. 6.
Communi Co-
thofidi.

Señ. III.

The Joynt Government of the Sons of Constantine;

From his Death to that of his Son Constans, and the Usurpation of Magnentius: The Space of Thirteen Years.

The Illuse of
Constantine.

1. **C**ONSTANTINE the Great had four Sons, and two Daughters. The Eldest Son was *Crispus*, and he begotten of *Minervina* his Concubine. By *Fl. Maximiana Fausta*, the Daughter of *Maximianus Herculius*, he had three other Sons, *Constantine*, *Constantius*, *Constans*, and his two Daughters, *Constantina* and *Helena*. Now *Constantine* had a Wife married to him in his Father's time. Afterward, being Emperour, by an Embally he procured another, of a most Noble Family out of *Spain*. For *Constantius*, he first married the Daughter of his Uncle *Constantius*, the Sister of *Gallus*, Betrothed to him also by his Father. After her, he wedded *Eusebia*, and at last *Fausina*, the Mother of *Constantia*, born after his Decease, and afterward married to *Gratian*. To *Constans* was given in Marriage *Olympias* the Daughter of *Alabaur*. Of his Daughters, *Constantina* was first married to *Hamballianus*, the Son of *Dalmatinus*, the Brother of *Constantine*, who by his Uncle was made King of *Pontus*, *Cappadocia*, and *Armenia* the less, being invested with a Purple Robe; and after his Death to *Gallus Cæsar*. Of *Helena*, his Brother *Julian* was the Husband.

2. None of the Sons were present when he died, though *Constantius* arrived not long after: but there was no need of their Preference to make a Relentment of the Loss of the Empire sustained by their Father's Death: for the Souldiers that then waited, upon Knowledge of it, tore their Cloaths, cast themselves prostrate on the Ground, knock'd their Heads against the Walls, and otherwise expressed such Sorrow, as was agreeable to so publick a Calamity. And their Officers were no whit behind them in testifying their Grief with mournful and passionate Expressions; calling him their *Preserver*, *Deliverer*, and *Common Parent*. Neither were the Townsmen backward herein, to follow the Example of the Court, and Camp, running like mad men about the Streets, and bewailing their Loss, or sitting at home dejected and oppressed with Sorrow. When Grief would give them leave, the Souldiers took up the Body, and carried it to *Constantinople* in a golden Coffin covered with Purple, where it was exposed in the Palace to be seen of all, with Lights burning round about it, and Attendants to watch it. Here Court was kept, as if he had been still living. The several *Comites*, and other Persons that were wont to adore, or salute, now doing their Duty to him as formerly. The *Senate* also paid him the same Respect, together with all the Magistrates; and the Citizens were not wanting to testify their deep Sense of his Loss, who had been so noble a Founder and Benefactor to their City. Neither did old *Rome* forget to sympathize with

Vide Differt.
Gothofredi in
Philologiam
lib. 8. C. 17.
Siganian.

The Grief
which all men
expressed at
his Death.

Seet. 3. with her Daughter, the new: for as soon as the Report of his Death there arriv'd, they shut up their Shops, and publick Bathes; abstained from the *Forum*, and their usual Sports, and intermitted all those Recreations, which in Times of Prosperity were wont to be used. It's said also, that they pictur'd him sitting in Heaven, and desired to have his Body sent to them to be buried in their City.

Constantius makes away his Uncle and Kinsmen.

3. But this was not agreed to by *Constantius* his Son, who being not so far distant as the rest, upon Notice given, halted to Court, and thought it most fit he should rest in that City, to which he himself had given Original. *Constantius*, either for that his Father had left such Command in his Testament because they attempted to poison him (as some improbably have reported) or rather to prevent more Competition, (for three Brothers might seem to suffice for the Government of the Empire) put to Death, or permitted to be put, his Uncle and Kinsmen; viz.

Constantius Dalmatius, and his Sons, *Dalmatius Caesar*, and *Anaballianus*. *Zosimus* yides *Gothefred*.

relates this, as done after the Division of the Empire amongst the Brothers; which he will have the Uncle, and Kinsmen in a certain manner to have been Sharrers. But the Brothers were by the Souldiers declared *Augusti*, or Emperours, not till the fifth of the *Ides of September*; which was more than three Months after their Fathers Death; so that if the other Princes were killed by *Constantius*, presently after the Decease of *Constantine*, as some write, it must rather have been done before the Division, and most probably to prevent, as was said, more Competition. *Constantius*, and *Constant*, for some time, continued together. First in *Macedonia*, at *Thessalonica*, then at *Naissus* and *Viminacium* in *Mylla*, and thence removed to *Sirmium* in *Pannonia*; in which Country, the Division of the Empire was made. In this Division, *Gall*, *Spain*, *Britain*, and part of *Africa* *Proconularis* fell to *Constantine*, the Eldest: to *Constant* the youngest, *Italy*, with the rest of *Africa*, *Illyricum*, *Macedonia*, and *Greece*, with what bordered upon the *Euxine* Sea; and to *Constantius*, *Mylla*, *Thrace*, with *Constantinople*, *Afia*, *Aegypt*, and the Eastern Empire, as far as from *Illyricum* to *Nisibis*. This Partition was not made without some Dissatisfaction and Disturbance, which was compoed by *Constantius*, for some time; but broke out afresh betwixt the other two, and after three years proved Fatal to the Eldest. The Division of the Empire was first made by *Probus*, and *Florianus*, and this Example followed by *Maximinus*, *Constantius*, *Constantine*, and *Galerius*. These first divided the Empire into several Appropriate Parts, or Portions; for although formerly *M. Antoninus* Reigned with his Brother *Verus*, and *Severus*, with his Son *Antoninus*; yet they Reigned as one man, and there was no Partition made of the Roman World. The next Division was this of the Sons of *Constantine*, whereof *Constantius*, the Survivor, reunited the Empire, and so it continued, till *Valentinian* parted it again, betwixt himself and his Brother *Valens*, to whom he granted the East, for his Share, with part of the Forces. But they after a few years, and the Sons of *Valentinian* dying Childless, it returned to *Theodosius* alone, who again parted it at his Death, assigning to his Son *Arcadius*, the East, and to *Honorius* the West; yet were all things done jointly, as in one and the same Empire. This Division continued till *Valentinian* the third, and *Martian*, about which time the *Barbarians* began to seize on all parts of the West; subduing *Britain*, *Spain* and *Gall*, and at length *Italy*, with *Illyricum* and *Africa*, and so fell the Empire of the West; to which Fall and Ruine many conceive this Partition of it to have conduced. And it is easie to imagine, that hence might be multiplied Wars and Dissensions, whilst several Princes were not contented with their Shares, but each one strived to be Lord of all. But indeed we may conclude, that it was neither capable of bearing many, nor of one alone. More than one procured it's Ruin by Division, and one alone was not able to manage it; therefore must it decay by Degrees, as all Kingdoms and Principalities of too great Extent and Burthen; for which the Life, Force, Authority and Understanding of Man are altogether Insufficient.

How often Partition of the Empire happened.

4. That *Constantine* himself by his Testament, or otherwise before his Death, divided his Empire amongst his Sons, hath been believed; yet it is not certain, whether, he or they, after his Decease made the Partition. For what *Eusebius*, or the Author of his Life writes concerning his assigning them several Countries, might be understood of his giving them Governments, at such time as he made them *Cæsars*. However long it was not, before they fell out about their Shares, it being a rare thing for Partners in Sovereignty to agree. And whether from Confidence in their Dissensions, or by Reason of the Death of their Kinsmen, or other Reasons the Division was scarcely made, when Tumults and Seditions hapned in the Empire. Before *Constantius* and *Constant* parted asunder, and still resided at *Viminacium*

The Brothers fell out about the Partition of the Empire.

4. That *Constantine* himself by his Testament, or otherwise before his Death, divided his Empire amongst his Sons, hath been believed; yet it is not certain, whether, he or they, after his Decease made the Partition. For what *Eusebius*, or the Author of his Life writes concerning his assigning them several Countries, might be understood of his giving them Governments, at such time as he made them *Cæsars*. However long it was not, before they fell out about their Shares, it being a rare thing for Partners in Sovereignty to agree. And whether from Confidence in their Dissensions, or by Reason of the Death of their Kinsmen, or other Reasons the Division was scarcely made, when Tumults and Seditions hapned in the Empire. Before *Constantius* and *Constant* parted asunder, and still resided at *Viminacium*

A.D.

337.

of *et prius*, &
Cod. *Theodosii*
Chron. *Hist*
ricum ad An-
num 337.

Quelquid re-
fert *modum* *Pri-*
det *instabili* *lo-*
co. *Seneca* in
Oratio.

Chronicon *Hi-*
storic *Gothe-*
fred.

Seet. 3.
An Edict against Informers.

in the lower *Mesia*, they sent out an Edict against Informers, or Accusers, which is thought to have had Respect to those, who were falsely accused, as being of the Party of the Princes that were put to Death, or of *Abbasius* the *Præficus Prætorio*, or *Optatus*, the *Patrician*, whom *Zosimus* writes to have been also slain by Command of *Constantius*. It bears Date of the twelfth of *June*, and on the eighteenth of the same Month, another Constitution was given forth from *Constantine* his Brother against Libels; wherein telling the *Africans*, that his Father took "Care for the suppressing of such scandalous Writings;" and Commanding, That they should neither be made known to him, nor publicly seen, lest by such Devices "the Life or Dignity of any one should be endanger'd;" he also commands, that they be all committed to the Fire. It seems the Provincials of *Africa* had by their Commits, "Messengers to him (whose Subjects they were by the Partition)" complained of their Sufferings in this kind, and prayed to be relieved; and not unlikely it is that the Occasion also arose from the Tumults and Seditions, which about this time had been in the Empire. *Constant* continued still in *Pannonia*, as appears by another Edict of his which bears Date at *Sirmium* on the twenty seventh of *July*, concerning publick Works, commanding the Judges to give Dispensations to none that ought to contribute towards them; for from the Indulgence of the Prince alone such Immunity was to be sought for, which was wont to be granted in respect to some Dignity, or Service, as to *Senators* of Court, with some others; and *Veterani*, or old Souldiers enjoyed it. Now these publick Works were the Bridges, Walls, and publick Buildings, wherein the Splendor and Ornament of the Cities and Towns consisted.

Constantius goes against Sapor the Persian King. His Edicts concerning the Decuriones.

5. *Constantius* from *Pannonia*, after the Division of the Empire, departed for *Syria*, to go against the *Persians*, whose King, *Sapor* by Name, encouraging himself by the Death of *Constantine*, and despoiling his Sons, now wasted *Mesopotamia*, and sat down before *Nisibis*, which near two Months he besieged. Upon Notice hereof *Constantius* removed to *Antioch*, where, on the eleventh of *October*, in the Consulship of *Ursus* and *Polemius*, he made an Edict concerning the *Decuriones*, lately spoken of. This Edict is followed by twenty six more published by this Emperour concerning the same Subject; from which appears what the State and Condition of the *Civitates* was at this time, and how he consulted for their Advantage. These Laws having respect to four things especially; these are The Form and Order of their Nomination. That the Courts might be supplied against the Pretences of such as would be excused. That by Punishment inflicted on such as failed, the Magistrates and *Decuriones* might diligently discharge their places. And in the last place, he confirms to them their Privileges. The other preceding twenty two Constitutions in the Code were made by *Constantine* the Great, his Father, by which as the State and Condition of the Places corporate, as they stood in his time do appear, so *Gothefred* tells you, that it's evident with what, and how great Study and Endeavour that Prince laboured to promote the Interest of all such Places. The Scope and Design of all which, it behooved those to exhibit, who endeavour to expresse the Humour, and Genius of that Prince by his Constitutions, especially; and not that of one, or two; only, as *Baldwin* hath done, whose Commentaries, saith he, concerning *Constantine* the great, that I may say it once for all, contain rather a Shadow or Pourtrait of a full Work, than a compleat Treatise, as some eminent men have before observed.

He flirts up the Arabians against Sapor.

6. Ere *Constantius* could reach *Nisibis*, his Work was done to his Hand; for *Sapor* despairing of any Success, had quitted the Place, which is ascribed to the Prayers and Sanctity of *James*, the Bishop; during whose Life and Presence there, none of his Designs could succeed against the City. *Constantius* to divert the *Persians* by giving them something to do, procured by his Ambassadors the pilfing *Arabians*, to fall upon them, while he attending this Business, made some stay in those Parts of the *Phœnician Syria*, bordering upon *Arabia*; as at *Emesa*, *Laodicea*, and *Heliopolis*, Cities of that Tract. Having given such order to his Affairs, as he thought convenient in those Parts, he returned to *Antioch*; but the following year, (wherein he himself the second time, bore the Title of *Consul*, with his Brother *Constant*) came back again into these Quarters, as appears by the Dates of several Edicts now made by him. For being at *Laodicea*, and there intrusted, as is probable, by the Lawyers of *Berytus* (the University for that Science) he reformed many things of old Custom, but very ill Consequence, and particularly took away capitious *Execrations* used in Forms and Words of Law by a Constitution directed to *Marcellinus*, the *President* of *Phœnicia*, and to the People of that Province. From *Laodicea* he removed again to *Antioch*, whither carrying an Observation he had made of

Chronicon *Historic* ad *Marcellinum* CCCXXXIX.

Scct. 3. of the ill Practices of his Subjects of *Phœnicia*, or being put in mind by others of a scandalous Custom in those parts, by a severe Edit he endeavour'd a Reformation. The Matter this: By the most ancient Laws and Customs of the *Romans*, it was unlawful to marry, as well the Daughter of a Brother as of a Sister: but afterwards, when Licentiousness increased, a Difference was made, and it was permitted the Uncle to marry the first, but not the second, this being occasioned by the extravagant Affection of *Claudius* to his Niece *Agrippina*; for the sake of whom the Fathers, by a *Senatusconsultum*, made it lawful to marry the Brother's Daughter, which before was accounted Incestuous. By this Example and Permission encouraged, *Domitian* married the Daughter of his Brother *Titus*; but not long after, the old Law was restored, and this distinction betwixt the Daughter of a Brother and a Sister was taken away by *Nerva*, who ordained, that the Uncle should no more marry his Niece by the one, than by the other. Yet after *Nerva's* Death, what order he took herein proved ineffectual; for the Distinction again returned, it being as appears, by several Laws of the Digest, and by *Ulpian*, lawful in his time (who lived in the Reign of *Caracalla*) to marry the Daughter of the Brother, though not of the Sister. And this Custom was in use in the days of *Dioctlesian* and *Maximian*; but taken away by *Constantine* the Great, as should seem from *Sozomen* the Historian, who relates, that he restrained such profane and licentious Marriages, as formerly were not prohibited, although, no such Constitution of that Prince be now extant. To be sure his Son *Constantinus* by an Edit did now restore the most ancient Law and Custom, prohibited not only the Marriage of the Sisters but the Brothers Daughter, and not only Marriage, but any Carnal Knowledge or incestuous Copulation betwixt them, and this under no less a penalty, than that of Death. Now the People of *Phœnicia* were they to whom the Constitution was directed; because they, and the Inhabitants of the other Provinces, bordering upon the *Perinians*, from them received several corrupt Principles, which were much contrary to the *Roman* Laws; as appears both from several Laws, that are yet extant, and were made to bridle their Extravagance; as also, by what the Author of *Constantine* his Life, and *Socrates*, do write of the *Helipolitans*, their using Wives promiscuously, until *Constantine* reduced them into Order, by the Propagation of *Christian* Religion amongst them.

For Maintenance of the War, he raises an extraordinary Supply.

Constantius published several Edicts.

Constantine his Brother makes War upon him for Africa and Italy.

7. *Constantinus* spent much of this year, in those Parts of *Syria* and *Phœnicia*, being intant upon the War with *Perfia*, for which he made more than ordinary Preparations: for he raised a Tax, or Sum of Money from his Subjects upon this Account, which being not in the common Course of Payments, many Persons might by their Privileges pretend Excuse; but to obviate all such Pretences, he published an Edit, whereby all Persons were compelled to contribute, and none permitted to insist upon their Immunity from extraordinary Services in a time, when the extraordinary State and Condition of the Empire called for an universal Supply; which was counted good Reason also in after-times, to dispense with such Privileges, as we may see in due Place. But to leave *Constantinus* for a space and to enquire how his two Brothers managed their matters in the *West*. By the Dates of several Laws we find *Constantius* about this time at *Naissus* in *Dacia*, and at *Aquileia*, at both which Places he published Edicts. By one directed to the City of the *Cirtenes* in *Numidia*, which had lately got the Name of *Constantina*; he restrains the Liberty which *Dumvir*, or Magistrates of Cities took to desert their Offices; for being obliged to be at the Expence of Games and Shows, they were wont to get themselves to be made *Senators*, and otherwise to decline these Services, which to prevent (as his Brother *Constantinus* much about the same time dealt, much what in the same manner with *Pretors*) he Commands the Corporation to lay out the Money upon the wonted Recreations, and to constrain the *Dumviri* afterward to pay it, by detraying their Goods, if need should so require. By another Law he took Care for Causes relating to the Treasury, for that depending therein, should be speedily, and justly determined. But while he busied himself with making Laws, the noise of Arms disturbed and diverted him; the Dispute between him, and his Elder Brother being now come to that height, that *Constantine* made War upon him; the Controversie being no less, than concerning *Africa*, that belonged to *Carthage*, and also *Italy*. *Sozomen* tells us, that *Constantius* desirous to fall upon and destroy his Brother at unawares, diffembled his Displeasure for three years together, and watching his opportunity, when he came into a Country, that was kind and faithful to him, sent a Party of Souldiers with Show and Pretence of assisting *Constantinus* against the *Perfians*, to make him away; which, when he thought of nothing less, they effected. But the general opinion is, that *Constantine*

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Scct. 3. *stantine* was the Aggressor in this War; and that invading the Territories of his Brother *Constantius*, he was slain by his men, near *Aquileia*, in the third year of his Reign; and that before the ninth of April, at what time, as appears from the Dates of several Laws, *Constantius* was Master of all *Africa*, which was not till after the other's Death. On the twenty ninth of the same Month he published another Edit, whereby he took away Immunities and Privileges from Tribute granted by his, and the publick Enemy, as it is worded. Now by a publick Enemy, whose Acts are hereby rekindled, can be no other than an Emperor meant, and considering the time, none but *Constantine*, by whose Death *Africa*, as well as his other Provinces, falling into the hands of *Constantius*, he thought it incumbent upon him, to take Care of the publick Revenue by repealing those Immunities through which it had been diminished.

8. But as to the Death of *Constantine*, *Zonaras* tells the Story with some further Circumstances. He writes, that he first expostulated with his Brother *Constantius* about the late Partition of the Provinces, requiring him, either to surrender him part of his Share, or else to come to a new, and more equal Division. This he flatly refused to do, not yielding in the least to what he demanded; whereupon *Constantine* took up Arms, and invaded the Countries of *Constantius*, who being in *Dacia*, and undertaking what he attempted, sent away some of his Captains against him, resolving to follow in Person with the rest of his Forces. These Officers being come near to the place, where *Constantine* was posted, a party of men lying in Ambush, rose up, and then counterfeiting Fear and Flight, drew him into the Snare, wherein being beset, he perished with most of his Followers; for his Horse, vexed by the Wounds he had received, threw him; and his Enemies taking the Advantage of the Fall, killed him in the Place. Others add, that they call his Body into the River *Alfa*, which runs near to *Aquileia*, whether his Brother *Constantius* coming, celebrated his Funeral, and caused him to be reckoned amongst the *Dioi*; though this ill suits with the Character given in the Edit lately mentioned of his and the publick Enemy. But thus was the Empire of the *West* devolved upon *Constantius* alone, who from *Aquileia* travelled into other Parts, to settle his Matters in his newly gotten Possessions. Coming to *Milan*, he gave out there an Edit against such as Violated Sepulchres, concerning which it will be more proper for us to speak in another Place. From *Italy*, the following year, he passed into *Gall*, and came to *Lauriacum*, a place, as is probably conjectured, Situate in *Bavaria* over against the ancient Country of the *Franks*. Before his Departure out of *Italy*, at *Capua* he published an Edit, whereby he much gratified his Subjects of these Parts; forbidding Souldiers in their Quarters, to take any thing by Violence from their Landlords. At *Lauriacum* he made other two Laws, for Prevention of Municipal Officers (as the *Tabularii*, *Scribes*, and *Decuriones*), their forsaking their Charges in the Corporations, forbidding it upon Pretence of other Service, or Employment (*Militia*) although it was in the Court it self, except they had served already in the Office, the space of five years. Now as to the Place whence these Laws bear Date, on the twenty fourth of June, in the Consulship of *Marcellinus* and *Probinus*; there were in those Times three several Towns, that bore the Name of *Lauriacum*; the one in *Noricum* and the Western *Illyricum*, where the second Legion and Navy lay; where was a Fabrick, or Forge for Targets, the principal Place on the Road betwixt *Italy* and *Pannonia*, at this Day *Lorch*, but in an ancient Inscription called *Colonia Aureliana Laureacensis*. Another in *Italy*, between *Cremona* and *Mantua*. And a third in *Bavaria*, over against the *Franks*, perhaps now the same with *Larenz* a Town lying betwixt *Ulrecht*, and the River *Flevis*; and hence, probable it is, that these Laws were dated.

9. For in this year, which was the CCCXLI of our Lord, *Constantius* resided, neither in *Noricum*, nor in *Italy*, but in *Gall*, where he had to do with the *Franks*, with whom for this year he fought with success, but in that following overcame, CCCXLI. and quieted them; it being in his second Consulship, which Office his Brother *Constantius* also bore now the third time. After his Conquest of the *Franks*, the Winter following he came over from *Gall*, hither into *Britain*, in very hard Weather, against the *Scots* and *Picts*, who it seems, at this time were tumultuous, even to Rebellion. Of what passed here in particular, as of most other Matters relating to War, at this time we have but very slender Intelligence; upon which account we have great Reason to bewail the Loss of the former part of *Ammianus Marcellinus* his History. But from a Law, which he passed at the Sea-side, before he embarked, it is probably conjectured, that for this Expedition he laid a Tax, or extraordinary Payment upon his Subjects; as also certain base Services, termed by them

Zonaras his Story of this Death.

Thereby the Empire of the West being devolved upon Constantius, he removes into Gall.

Comes over into Britain.

A.D.

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them *Sordida munera*) from which by this Law, he frees his own private Estate, "and the Tenants of his Lands. These Services seem to have been no other, than the Building of Ships, and others necessary for Transportation of his Army, now lying at *Bononia*, from which the Edict bears Date, and which is not to be understood of *Bononia* in *Italy*, as some have mistaken it; but of that Maritime Town in *Gall*, which now is known by the Name of *Bullogne*, in old time of *Gessoriacum*, and from which the ordinary Passages lay then into *Britain*. To return into the *East*, and make Inquiry after *Constantius*: while his Brother was yet in *Italy*, we find him in *Bessa*, a Town in *Thrace*, whence in the Month of *August*, he published another Edict concerning *Decuriones*. The Month following he departed to *Antioch*, and thence gave out other Laws to the *Senate*, concerning *Pretors*, their usual setting forth of Publick Games and *Pastimes*, by the first of them moderating the extravagant Expence they were at therein; and by the other providing, that by Reason of their Absence they should not be omitted. For the Charge was wont to be so great, that to shun the Burthen, they would shift out of Town, and absent themselves: therefore he moderates their Expence by confining the first *Pretor* of *Constantinople*, who bore the Title of *Flavialis*, to that of twenty five thousand *Folles*, and fifty pounds of Silver; him that had the Name of *Constantinianus* to twenty thousand *Folles*, and forty pounds of Silver; and the third, known by the Title of *Triumphalis*, to fifteen thousand of the former, and thirty pounds of the latter sort. Having settled the Expence thus moderately, by his second Law he commands, that if any one absented himself, the Games should be solemnized at the Publick Charge, and refunded by the *Pretor*, at his Return. Now the *Folles* (no Silver Money) seem to be mentioned for the Expence of the Games, and the Silver for the *Sportula*, or Presents they were wont to make. Hence also we may learn, that at the making of the former Law, there were but three *Pretors* at *Constantinople*; but otherwise it appears, that even in the Reign of this Prince, there were sometimes five; four under the Emperour *Valens*, and no fewer than eight under *Theodosius* the Great. Of these some received Names from the Families and Names of Emperours; as *Flavialis*, *Constantinianus*, *Theodosianus* and *Arcadianus*; and some from other things; whereby the Glory of the Roman Empire was expressed; as *Triumphalis*, *Augustalis*, *Romanus*, *Laureatus*.

To the two following years *Constantius* resided still at *Antioch*, the Court, or Body Politick of which City seems to have been much exalted at this time, especially, for that most that could find any Evasions, shunned the Offices and Employments thereof. To prevent the Excuse of Poverty, and to settle some constant Rule therein; by an Edict he ordained, That he that possessed above twenty five Acres of Land, should be thought of sufficient Wealth to qualify him for Employments, but not under that Quantity. But though he had it not all of his own; yet if he held in his Hand so much belonging to the Prince his Patrimony as to make up the number of Acres, he should be bound to hold. And if any should fraudulently sell their Lands, all such Lands are hereby declared confiscate, and all such punished in the same sort, as should obtain capiously under hand, any Rescript for Dispensation from these Employments, having such Estates as now mentioned. This bears Date of the fifth of *April*, and is directed to *Rufinus*, Comes of the *East*. And on the eighth of the same Month another Law was directed to *Aurelius*, President of *Augustanica* (in *Egypt*, and now first mentioned, as a Province) whereby Order is taken, that none by pretence of any Honorary Dignity should evade the Burthen of these Offices; so great Care had Emperours for Corporations. Part also of the following year *Constantius* spent at this City of *Antioch*; as is evident by a Law dated hence, on the first of *March*, concerning false Coin. For in his Time, as appears otherwise, besides what we have from the Laws, there were many guilty of that treasonable Crime. But it had not its Rise in his own Reign; being very common also in the Days of his Father, who took very much Care for Redress of this Mischief; by the several Laws he published, wherein he encouraged all such as would discover the Offenders, and ordained other things very remarkable: Banishment, and Confiscation of Estates (he making the Offence capital only to Slaves) proved not sufficient for Prevention of coining Brass Money, or Silver. As to Gold, *Constantius* now by a new Edict proposing Rewards to the Discoverers, ordains, that such as counterfeited the *Aureus*, or Golden Coins should be burnt alive, as his Father formerly had done in the like Case, and as even by ancient Laws, a greater penalty was wont to be inflicted upon such as counterfeited this sort of Money. And this Punishment he will have undergone, all Delay and Appeal removed.

11. From

A. D.

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11. From *Antioch* he removed to *Hierapolis*, where we find him this same year in the Months of *June* and *July*, and as is probably conjectured, upon the Account of the *Persian* War, wherein he was again at this time engaged; although we have little Light concerning the Methods, or Management thereof. But for this purpose he seems hence to have published an Edict, to constrain the Sons of the *Veterani*, or old *Emerit* Soldiers, to serve in the Armies; thereby on the twenty seventh of *June* commanding, that if after the Age of sixteen years, they either refused, or were unable to bear Arms, they should then be condemned to the Offices and Services of the *Curie*, or Corporations, from which otherwise they were excused. And this he did, as he hints, in Imitation of what his Father had enacted in the like Case, when he was also embroil'd in the *Gothick* War. And for the like Reason we must believe, that the year also that followed, he was still engaged with the *Persian*, against whom, as the Army marched, or lay encamped, left the Subject should be harassed by free-Quarter; he published an Edict, bearing Date of the eleventh of *October*, whereby he prohibits, not only common Soldiers, but all *Comites*, *Tribunes*, or Officers, not only to exact Wood and Oyl, but even *Mattresses*, *Pallets*, *Quilts*, (*Culcitra*) or such like Stuff from their Landlords, under great Penalty; if without their Consents, or the Allowance of the Magistrates, they took any such thing. Now by Magistrates here may be meant those called *Magistri Pagorum*, whose Employment it was amongst other Matters, to gather up Provisions for the Army, and therewith to supply the Souldier in his Passage, without the Orders of whom, no Provisions could be taken up; therefore they are styled *Patroni Vicorum*, because they protected the Villages, and common People, from all Infolencies of this Nature. But while *Constantius* exercised himself and his men in Preparations and Skirmishes against the *Persians*; those he left behind, and his Subjects in other Places were not idle, but busied by him in several publick Works. For at this time he caused to be made, at vast Expence, a commodious Haven at *Seleucia*, cutting down a part of the adjoining Mountain, and repaired the City. He also built *Antaradus* in *Phoenicia*, which he named after himself, *Constantia*, and caused to be erected publick and magnificent Baths, which also bore his Name. Moreover, at the same time *Antioch* was repaired, and beautified with many and great publick and private Buildings. Therefore there being great need of Architects and Artificers, as his Father, formerly had done, when by reason of the Building of *Constantinople*, and his Churches, there was great occasion for Workmen. He also published an Edict, this same Summer, on the sixth of *July*, for their Encouragement, both to work themselves, and to teach others their Mysteries. *Constantine* in his second Law (if indeed it be his) whereby he frees those Workmen from personal Employments, reckons up five and thirty sorts of Artificers; but *Constantius* in this Edict, only four, under the Names of *Mechanici*, *Geometre*, *Architecti*, and such as taught how to lay Pipes in *Aqueducts*, and to convey Waters; concerning the Nature of whose several Employments, it's not proper for us here to enquire.

12. But this we must needs observe; that not only by reason of his new and sumptuous Works, *Constantius* might be induced to renew the Privileges granted to Artificers, but constrained also by a Sense of publick Calamities. For during this War with *Persia*, and about these times, great Mischiefs had proceeded from many and most terrible Earth-quakes. *St. Jerom* in his *Chronicon* tells us; that the year following the Death of *Constans* the Younger, many Cities of the *East* fell to the Ground by an horrible Motion of the Earth, and some three years after this, that *Neo-Cæsarea* in *Pontus* was overturned, and all it's Inhabitants perished, except such as were saved with the Bishop in the Church. As also, that the year following this, and preceeding the building of the Haven in *Seleucia*, *Dyrrachium* was by an Earth quake demolished, *Rome* trembled for three days, and as many Nights; and many Towns of *Campania* were sorely troubled. To these *Cedrenus* adds, that in the fourth, or fifth year of *Constantius*, *Antioch* was endangered by an Earth quake of three Days continuance; that in his eighth, *Rhodes* was much distressed by the same Accident; that when *Dyrrachium*, the City of *Dalmatia*, perished, and *Rome* was in such Danger, twelve Cities of *Campania* were destroyed; and that in the twelfth of *Constantius* the greater part of *Berytus*, the City of *Phoenicia* also miscarried. This happened in the second year after the making of the Haven at *Seleucia*, or the Building of *Constantia*; or *Antaradus*; in which year also happened an Eclipse of the Sun, on the sixth day of the Month *Desius*. *Cedrenus* further writes, that the year that followed the Misfortune of *Berytus*, *Sapor* the *Persian* King, with all the Force he could make, fell upon *Nisibis*, against which

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Sect. 3.
Super fines
from Nifibus.

he turned the River, and by all sorts of Engines attacked it, but with such ill Success, that having lost the greatest part of his Army, he was forced to fly. This he placeth at the thirteenth year of *Constantinus*, how truly, as to matter of Fact, or Time, we cannot say: but whatever Success of *Sapor* was in this Siege, that of *Constantinus* by the Agreement of Writers was generally bad in all this *Persian War*; which the more *Orthodox Christians*, according to the Judgement of Parties, concluded to have hapned to him, because of his adhering to, and countenancing the *Arrian* Herefie.

Constantinus ex-
cuseth the Ci-
zens of Con-
stantinople
from finding
of Souldiers.

13. To be sure in the year following the publishing of the Edict lately mentioned, for Encouragement of Artificers, by the Date and Subscription of another *Edict*, we find, though not the *Persian Sapor*, yet the *Roman Constantinus* at *Nisibus* in the Month of *May*. In this very year several testifie, that he fought a *Battel* with the *Persians*, not far from that City, at a Place called *Singara*, and that by Night, and with no good Success; but this hapned several years before the De- feat of *Sapor*, as *Cedrenus* placeth it. But the *May* following, we find him returned to *Constantinople*, where he resided the whole year, or the greatest part of it. For on the *Noner*, or seventh of *May*, out of his tender Affection to this City, and to cherish that, which his Father had founded, he excused by an Edict the Citizens thereof, as well as his own Courtiers, from extraordinary Services, and Payment of Money for finding of Souldiers, willing that they should only pay for their Heads and Lands. Thus did he, as to this Privilege, make *New Rome* equal to the Old; providing in many other Respects besides, for the Peopling, and Adorning of it. But here he took Notice of a great Mis carriage, at this time, in the Payment of the ordinary Taxes and Revenue, which was, that if one had Lands in two several Cities or Provinces, they would get the Payment due in one to be removed to the other Place, and so both to be discharged in one together, which was termed *Translatio Conlationis*. Now the Advantage aimed at by ob- taining a Privilege to do this, was not so much, for that they were any whit eased thereby, in finding the Payments left in one Place, than another; but because one Town might be more convenient than another, for Conveyance of the Money, by Reason of Distance, or the Badness of Ways; or when one had several Payments to make, he found it less inconvenient to be answerable to one Collector, than many. For these Reasons, one or more, it was sometimes indulged; but by manifold Experience, both formerly, now, and afterward, it was found to tend to the defrauding of the Publick, and lessening the Revenue. Upon which Account, it was severely prohibited under heavy Punishments inflicted, both upon such as obtained the Privilege, and the Officers of the *Præfatus Prætorio*, by Means of whom it was procured. For under this Pretence many might withdraw themselves from publick Burthens; the Collectors might well be ignorant what, and how much was due in another Place, and the Town from which the Translation was made, was but more burthened by it, no less a Sum being still Exacted, than what was before the Subtraction of the mans Share thus privileged. Besides the Order and Course of the *Fiscale*, Accounts were hereby much perplexed. "Therefore" did *Constantinus* by this Edict reduce it into the former and usual Channel, and by the same Law, at the same time, grant Immunity from extraordinary, and foidid Employments to *Senators*, and their Dependents. And this was but an Abridge- ment as it were of a larger Constitution of *Constantine* the Great, whereby he distinguished betwixt Privileges granted to Persons, in Matters relating to the *Collatio*, or Tax; defining, that such as respected a certain Order and Dignity should stand; but those that were given to particular Men, to the lessening of the publick Revenue, should be abolished.

Grants to Sen-
ators Immu-
nity from Ex-
traordinary &
Sordid Em-
ployments.He Prohibits
Appeals for
Debts due to
the Treasury.

14. The next year, into which fell the *Consulship* of *Eusebius* and *Rufinus*, being of our Lord the CCCXLVII, *Constantinus* had his Residence some time in *Galatia*. For from *Ancyra*, a City of this Country, he gave forth an Edict to *Theodorus*, the *Rufinus* *Consul*, *Consularis* of *Cælo-Syria*, bearing Date of the fifteenth of *March*, and forbidding any Appeal to lye in Debts evidently due to the Treasury; which by another Law afterward he reinforces; by no means permitting these Appeals, either for Debts belonging properly to the publick Treasury, or that of the Patrimony of the Prince, lest the Commonwealth should be endangered by such Delays. From *Ancyra* he removed, not long after: for in *May* following he was at *Hierapolis* in *Syria*, whence another Constitution of his bears Date, which renewed the old Law, whereby the Estate of such Souldier, as died intestate, and without lawful Heirs, is adjudged, not to the Treasury, but to the Company wherein he served; it being presumed that by the Assistance of the Company, or *Legion*, he had got-

By another
Law further
encourages
Souldiers.

A. D.

347.

Chron. Hil-
lary, ad
347.L. de Exat-
onibus, lib. 11.

Cod. Th. Tit. 9.

L. de Nifibus
Maii, Nifibi.Amantio &
Albino Conf.

A. D. 345.

L. de Extra-
ordinariis, five
foridulis, vide
Gulielmum.

A. D. 346.

L. de Con-
stantino &
A. A. Conf.L. 1. de Con-
lationis Transla-
tio publicat.lib. 11. Cod. Th.
Tit. 22.L. de Con-
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tio publicat.lib. 11. Cod. Th.
Tit. 22.

Sect. 3.

Publisheth
other
Edict.One whereby
he frees Caria-
les from Cor-
poral Punish-
ment.Confians also
concern'd
Corporations.And for the
Provincials
of Africk.

ten such Estate: and this is thought now reinforced, for the Encouragement of Souldiers, that still served in the *Persian War*. For in this War *Constantinus* was still exercised, making often Expeditions, and visiting the Borders of his Empire. The year following, though not from any Dates of his Laws, yet otherwise it appears, that he spent some time at *Edessa*, and at the beginning of the next, he seems also to have busily employ'd in the same Country of *Mesopotamia*; to the Dux whereof, *Antiochus*, by name, he gave out a Constitution (now divided into two Laws) where- by he prohibits, both such as served the *Præfatus* or Magistrates of Provinces to be forced to go to War: and also, that the Sons of *Veterani*, or old Souldiers be admitted into the Service, or Attendance of the said Magistrates; which it was the Custom for them to look after, thereby to shun the bearing of Arms: and there- fore in times of Danger (as in this time) and in great Exigency of Affairs, they are by the Laws of several Princes drawn back into the Field. But by the begin- ning of *April* following, he was back at *Antioch*. "For thence he gave forth ano- ther Edict for the freeing of *Curiales*, or Officers of Corporations from corporal Punishments; it being too ordinary for the publick Ministers of the Provinces, to whom they were often subservient in publick Business, to beat and handle them too ignominiously; and this had been taken Notice of and forbidden by former Em- perours, as also it was by others that followed: But this Immunity sometimes extend- ed to all, sometimes was limited to the Principal among them; and other whilst Exceptions were made as to several Cases, according as the Occasions, or the Plea- sure of Princes were different. The year that next followed *Constantinus* made another Expedition into *Mesopotamia*, and there continued some time at *Edessa*, in which he called by fresh Provocations from the *Persians*, with whom he had a tedious and Unfortunate War, though he was ignorant of the Particulars, being no seldo- mer than nine, or ten times worsted in Fight. But the Brunt being over for this Turn, he came back to *Constantinople*; whence after some Stay, he removed into *Pannonia*, having new Work made for him by this time in the West. For there his Brother *Confians* was Overpowered by a Rebellion, and slain in *Gall*, in the Streights of the *Pyreneans*; which how it hapned, we must, as we have Intellig- ence, declare, after we have drawn down his Story from that place, where last we left it.

15. And his Story we must fetch from the same Fountains of the Laws, out of which that of his Brother is also derived, little of other Concernment being found writt till after his Death. We find him, as well as the other, much concern'd for Corporations. For whereas other Laws forbid any to forsake the Duties and Offices thereof, upon Pretence of bearing Arms, he extended the Prohibition to the three several Companies or Bodies of the *Calcarientes*, *Fabricenses*, and *Argentarii*; commanding, that if any were found obnoxious to the aforesaid Duties, they should be forced back to their several Courts, without Benefit to be ob- tain'd by any Refcript or Dispensation. The Reader, by what has been already said, may sufficiently understand what the *Fabricenses* were, viz. such as made Arms; and the *Argentarii*, those that adorned them with Silver and Gold; amongst whom were reckoned the *Barbaricarii*; to which we shall here add, that the *Calcarientes* were others, whose Task and Employment it was to Burn and Prepare Lime, for Publick Works; for preparing of which, there were, not only certain Persons appointed, but certain Countreys bound to find the Stone, and particular Lands charged with this Service for the City of *Rome*, as appears from several Laws. This Edict bears Date of the twenty seventh of *June*, and on the twenty ninth of the same Month he sent out another Constitution to *Eubulides* Vicar of *Africk*; whereby he both gives an Historical Account of some Disorders and Op- pressions of his Subjects of *Africk*, and endeavours to prevent the like for the time to come. He tells us, that besides the Solemn and Set Payments, much more was required of the *Provincial Africans*; and that most Unworthily by those called *Officiales*, and *Scholastici*; not only in the several Cities, but in Man- sions also: Provisions being Extorted without Money, both for themselves and their Horses or Animals. And he adds, that he is not ignorant how these *Scho- lastici* very often, besides Fees, received for Pleading Causes, Provisions and Ex- pence for their Journeys, by so great Incomes to Gratifie their Avarice. There- fore he gives Command to all Judges to protect the People of their Provinces, and not to suffer these Injuries to go unpunished. Here are mentioned two sorts of Oppressors, and two sorts of Oppressions. The first is that of the *Officiales*, and their Crime is *Superection*, besides what was due to the Publick, for the ordina- ry Tributes of which they were the Gatherers, requiring their Charges over and above,

A. D.

348.

Vid. Chron.

Vid. legibus
citatum ad
Antioch. 348.L. de Colo-
nialibus, Cod.L. de Colo-
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nialibus, Cod.

above, which the Law did not allow them. By *Scholastici* are to be understood, as is evident from the Law it self, no other than Advocates or Counsellors, by which Title *Agathias*, an Eminent Historian of this Profession, of whom hereafter we make much use, is also known. But being Accused, together with the *Officiales*, for the Exaction of Provisions, for themselves and their Horses, they seem not to have had Private Persons, but Towns Corporate, and Churches for their Clients.

16. In the following year, happened the unsuccessful Engagement of *Constantius* at *Singara*, near to *Nisibis*; and at that very time *Confians* lay at *Treveri* (or *Triers*) whence he gave out an Edict to *Eustathius*, at this time his *Comes Rei Private*, prescribing Rules, how Discovery of any Goods or Estates belonging to his Patrimony should be made. As that first, the Informer should go to the *President*, or Governour of the Province, before whom, if the Information was found Good, and Approved, this Judge was to make Report thereof to the *Comes Rei Private*; and then at length the Papers of the Information might be brought up to the Officers at Court; whither, or to the said *Comes*, leave was then given to the Informer to repair. By another Law dated not long after, on the second of *July*, he repealed a former Constitution made by him; and that at the Request, as it seems, of the *Roman Senate*. It had been the Law and Custom of old, that Appeal might lye from the *Prefect* of the City, and that by what Person soever made. But *Confians*, some years before, had abrogated this Law; so far as it concerned *Senators* at least, whose *Prefect* and Judge of Course the *Prefect* of the City was, and therefore he forbade them to betake themselves to any other. But this Constitution standing as Probationer for some time, was found at length to be very inconvenient, and unreasonable in this Respect, that what was first introduced for the Benefit of *Senators* (as this of the *Prefect* being their Judge) should be wrested to their Disadvantage, for a strange thing it was indeed, that privileged Persons, as those of that Order were, should be barred of any Relief that the *Jus commune* afforded them, especially this of Appeal. And probable it is, that *Rufinus*, who at present bore the Office of *Prefect* of the City, abused his Power, and therefore to him this new Edict for repealing the former Constitution, on, and Restoring the Old Law and Custom to its Ancient Vigor, was directed: for within three days after, he was out of his Place, and one *Probinus* made *Prefect* in his Room. Some two years after this, we find him restraining a severe course of Proceeding in *Sardinia*, against such as delayed the Payment of Tribute. It had been the Custom to put such as denied it to Torture, or to beat them with Bullets of Lead; which, as Cruel and Servile, *Constantine* had forbidden, and given this Reason for it, that such Punishment was to be inflicted, not upon Innocent, but Criminal Persons. This Law *Confians*; his Son, now Reinforced by a New Constitution, by which also, as here, he provided for the Quiet of his Subjects, so he took care that his Revenue should not be Lessened, and that by removal of another Custom, which much tended to it. It happened, that when Persons were Owners of Ground, whereof some were good and fertile, but others barren, or good for little; upon all which, taken one with another, a certain Charge of Tribute lay; rich men catching Advantage ordinarily of the Necessities, or Poverty of such as ought these Lands, would buy of them good and fertile Grounds, then pay for them only according to their Quantity, and leave the other Share to be discharged by those that were poor, and whose Lands, as Barren as they were, could not sustain the Charge. To obviate this Practice he ordains, that the Barren be added to those that were Good; and that such as had purchased the fertile should pay the whole Tax arising from all when laid and counted together. This was called an *Epistole*, concerning which some have been egregiously mistaken, and thence raised slanderous Reports against *Justinian*, as in due time and place will be discovered.

17. About this time there were great Complaints against the intolerable Influence of the Officers of the *Prince* his Patrimony; such as the Accountants, Solicitors, Farmers, and Husbandmen belonging to his Lands; who bearing themselves high upon their Relation to him, imagined they might use greater Liberty than other Subjects; and because of the Privileges they enjoy'd, no Officer, or Judge dared to meddle with, or correct them; the *Rationales*, as is probable, to show their Authority bearing them out in what they did. *Constantine* sensible how marvellous they were, had by an Edict given Power to the ordinary Judge of the Province, where they committed any Crime, to punish them no otherwise than any other unprivileged Persons; but their Confidence, either overpower'd the Modesty

of the Judges, or overawed the People, so that either no Complaints were made against them, or else the Governours of Provinces dared not to exert that Authority which was given them by the Law. By a new Constitution therefore *Confians* puts the Judges in mind of, and encourages them to their Duty, willing them to animadvert upon these Men no otherwise, or less than upon the Provincials; whether by Imprisonment, Torture, or Death it self, which Remedy he hopes may prove effectual against this Inveterate Distemper. And indeed such wholesome and severe Laws were found necessary against these Officers belonging to the Prince his private Estate, against the Insolence of Souldiers, and the *Ageres in Rebus*; which three sorts of men presuming upon their Relation, lived, as if obnoxious to no coercive Laws; yet had *Constantine* thought fit to have them more severely punished than others, as such, who ought themselves to preserve good Rule, and give good Example: and they have been judged to be burnt alive, all Encouragement being given to the People to come in, and inform against them. And whereas their Insolence made them as peremptory to refuse the Payment of Tribute, or publick Duties, as bold to commit greater Offences; by the same Constitution (divided into these two Laws) he commands, that they be forced to discharge these publick Debts. This same year being at *Sirinnus*, he directed another Constitution to *Silvanus*, the *Comes*, and *Magister Equitum* and *Pedum* for the Reinforcement of Military Discipline; forbidding any *Tribune*, or Officer to give leave (*Commeatus* the word is) to any to depart from his Colours, or connive at his Departure, under pain of forfeiting five pounds of Gold. And as hereby he provided against Souldiers their quitting of Service; so also by the same Edict (divided, as the former, into two Laws) against the Attendants, Officers, or Servants of the Magistrates, their forsaking their Attendance upon other Pretences. This Constitution was signed on the 27th of *May*; and on the thirtieth of the same Month, followed another Edict directed to *Titianus*, the *Prefectus Prætoris* of *Gall*, and therefore must have been of *Confians* his making, within whose District or Share of the Empire that Country then lay. It was not lawful for Souldiers to take Families with them, when they went upon Service; and if they did; they must have Warrant and Leave expressly granted for it. Now it hapned, that many getting License to convey their Families, the *Jus Publicum*, of which in such case they were permitted to make use, was much burthened, and several Inconveniences hapned from these Impediments in the Camp; therefore there was need to have it explained, what was meant by a Family, that so it might be known what Company they might be allowed to take with them. And this *Confians* by this Edict performs, interpreting by Families, their Children and Slaves; not all, but such as had been purchased by their *Citizens* *Peccatulum*; whereas otherwise, the word *Family* was of a far larger Signification.

18. But, it is probably conjectured, that for the making of this Law, a Matter of far greater Consequence gave the occasion, and That no less than his own Safety and Preservation. For now about this time, so great a Faction arose, that at length he was overpowered, and destroyed by it. The Rife of this Faction was in *Gall*, to the *Prefect* of which, this Edict is directed; the Army whereof he might have just Cause to fear; would, under Pretext of Souldiers having their Families with them, be filled with a Confluence of *Barbarians*, and particularly the Nation of the *Franks*, now hovering upon these Parts, and serving in the Armies. To be sure shortly after, if not at this time, brake out the Rebellion of *Magentius*, who himself was descended of the *Leti Frangi*, was supported by that People, and to whom this *Titianus* the *Prefect* did adhere. *Zosimus*, no Friend to *Constantine*, and his Sons, fetches the Original of the Revolt from the great Extravagance of *Confians* his Life, who after the Death of his Brother, as he writes, carried himself like a Tyrant, and harassed his Subjects with all sorts of Cruelty; whom he permitted to be oppressed by such *Barbarians*, as he had bought for the gratifying of his Lust, and by such as were Hottages in his Court. This his Followers taking to Heart, and seeing him wholly given up to the Pleasure of Hunting, began to contrive his Destruction, under the Guidance, and Encouragement of two considerable men; whereof the one was *Macellinus*, *Prefect* of his Treasury; and the other *Magentius*, *Signis* of the one who commanded the *Joviani*, and *Herculiani*; two Legions so called. The Device to bring about their Design was this: *Macellinus* gave out, that he would celebrate the Birth-day of his Son, and invited to the Feast, both *Magentius*, and

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and many other of the most eminent Commanders. The Entertainment lasted till Midnight, at which time *Magnentius* withdraws himself, as upon some necessary Occasion, and within a little time returns to the Company, dressed in Imperial Robes, and attended by his *Satellites*, or Guard. Some of the Company were doubtless provided and prepared before hand; but most, as it seems from *Zosimus*, looked upon it but as a Play, or a Jest; and probable it is, that if the Plot had not taken, for such it would have been owned, and might have passed. But those that were of the Conspiracy saluted him with the Title of Emperor; and the rest, whether surprized with the thing, and for want of Recollection, or affrighted at so strange a Passage, did like their Fellows; there being among them also several of the chief Citizens of *Augustodunum* (or *Autun*), where this part was acted; by means of whom all the Inhabitants were induced to salute, and own him, as *Augustus*; such as had any mind to oppose, wanting Strength, and Assistance, so that he seized on the Palace, and distributed Money amongst the Rable.

19. Having thus far proceeded, he caused the Gates to be carefully watched, admitting every one in, but suffering none to go out, and give Intelligence what was done. And now having got the Approbation of certain *Illyrian* Troops, who were newly arrived for a Supply, as well as that of the *Gallick* Forces, he sent away one *Gaiso*, with a Party of Men, to make sure of *Constans*. He having got some Notice of what had passed, had cast off the Robe, and endeavouring to make his Escape, came to a place called *Helena*, a Village adjoining to the *Pyreneans*, where *Gaiso* having made Inquiry for him about the *Rhofne*, at length found him, and murdered him with his own hands; fulfilling, as is said, what was foretold him, that he should dye in his Grand-Mother's Lap, because this Village bore her Name. And so perished *Constans* in the tenth year, after the Death of *Constantine*, his Brother, in the Consulship of *Sergius* and *Nigrinianus*. A. D. CCCL. This Prince was much Subject to the Gout, which Disease is to be ascribed to his intemperate Course of Life; for of this, most Authors do make him Guilty. Being not able to look much after Business himself, it behooved him to get able Ministers; but he is accused to have made no good Choice; and not have preferred men for Merit, but for Money; which necessarily hurried him into great Inconveniences: For such Persons by their oppressing the People, brought great *Odium* upon his Government; while they laboured, not only to reimburse, but enrich themselves. And whereas his Infirmary of Body rendered him unfit for Action, he was no way acceptable to Military Men, in whom that inveterate Humour of making, and unmaking Emperours was still Predominant, and so continued for many Ages. Yet did he keep the neighbouring Nations in Peace; which he effected, rather by procuring Hostages, than any Awe or Terror of his Arms. He was also fortunate herein, that no publick Calamity hapned in his Time, but the Provinces under his Jurisdiction rejoiced in constant good Weather, and plenty of all things. Nay, his Jurisdiction, one of the best Writers, assures us, that at first his Government was vigorous and just, and that he had achieved very noble Enterprizes by his Arms, and was through all his Life-time feared by the Souldiers, yet without any great matter of Cruelty. However, (a) another wishes that his Vices had continued; for by reason of the Disasters which afterward hapned, and the Wickedness of such as followed him, they were all utterly forgotten; and that Reign of his deservedly wished for, to have returned, if it had been possible.

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From the Death of Constans, to that of Constantius.

The Space of Eleven Years.

1. FOR, the Disposition of *Magnentius*, was very Naught, which the *Romans* much attributed to this, that he came of a *Barbarous* Nation. Elevated by his Success, before he heard of the Death of *Constans*, he sent, in his Name, for such Magistrates in the Country as were most Eminent, and caused them to be Way-laid and Murdered; in which point he spared not some of his own Conspirators. His two Brothers, *Decentius* and *Deliderius*, he declared *Cæsars*, and sent them to make sure of *Gall* and *Spain*; as he also Dispatched others into *Italy*, to secure that Country; that after he had killed, he might take possession of the whole Inheritance. But, as soon as the Death of *Constans* was heard of in *Italy*, one *Nepotianus*, the Nephew of *Constantine* the Great, by his Sister *Eutropia*, had taken the Purple; and having got the Assistance of a Company of *Gladiators*, and Persons of Desperate Fortunes, went to *Rome*; which when he found seized by those that *Magnentius* had sent (the People being betray'd by *Heracleides*, a Senator) he laid Siege to the City. Upon sight hereof, *Amicius*, who had been by *Magnentius* made *Præfectus Pretorio*, brought some of the ordinary fort of *Romans* out against him, and engaged in Fight; but finding them to be Worst, he Retired into the City, shut the Gates, and left them all to be slaughtered by him. But the Encouragement which *Nepotianus* receiv'd by this Success, was shortly turned into the other Extreme, by the coming of *Marcellinus*, now the *Magister Officiorum*, who being sent by *Magnentius* with an Army, Engaged, and Defeated him in Battle, took him Prisoner, and cut his Head from his Shoulders; which he caused, with Insolence enough, to be carried in Triumph, and thrown about the City. Such was the end of *Nepotianus*, who having on the third of *June* assumed the Name of Emperor, perished in this manner, the twenty eighth day after. But though he was Dead, *Magnentius* was not freed from the fear of Competition, over and above the Apprehensions he had of what *Constantius* from the *East* might attempt against him. For, this year was fruitful in Tyranny and Usurpation. He began the Tragedy on the first of *February*, and on the first of *May* following, one *Veterano*, who Commanded the Army in *Pannonia*, hearing thereof, resolved to Act his Part too, having as much Right and Encouragement as the other; and being also saluted *Augustus* by his Souldiers, placed his Scene at *Mursa*, a Town of that Province. We have seen already how *Nepotianus* made his Exit, and now must fetch *Constantius* out of the *East*, before we can see the finishing of the rest.

Magnentius causes the Magistrates in the Country to be Murdered.

Nepotianus sets up for himself.

Is Defeated and Slain.

Sapor besieges *Nisibis*.

And departs with loss.

2. *Constantius* had received news of his Brother's Death, and the Usurpation of *Magnentius* with such Regret, as was suitable to Natural Affection, and the Interest of his Family; and desired above all things to Chastize the Treason. But at this time he was deeply Engaged in the *Persian* War, with *Sapor*, who having news of these Disturbances in the *West*, with a great Army Invaded, and Harassed *Mesopotamia*. He laid Siege to *Nisibis*, Attacked it with his Battering Engines; and finding stout Resistance from those within, by a Ditch drew the River away from them, that the want of Water might constrain them to yield. But the Townsmen, by digging of Wells, and the Fountains in the City, made shift good enough to supply this want: which he perceiving, by a sudden stoppage of the Stream, forced the River against the Town, and it broke down part of the Walls, which yet the Defendants again, by their extraordinary Industry Repaired. So that having in vain betaken himself to other shifts, but none succeeding, he despaired of Success; and word being brought him, that the *Massagetae* had Invaded his Dominions, he returned home, having lost a great part of his Army. *Constantius*, glad of the Leisure hereby afforded him to attend his Affairs in the *West*, and sensible in what danger they stood, bent all his Endeavours for the Reducing the Provinces Revolted. In the first place, he took care for the Reinforcing of his Armies, and that by an Edict directed to *Cretio*, one of his *Comites* of the *Militia* upon this occasion. It was not lawful for Officers at any time, no not in Peace, to dismiss any Souldier,

Signius.

L. de Re Militari, l. 2. c. 1. Tit. Silius & Nigrinus A.D. 350. c. 1. de Leg. 1. c. 1. de Justitiani.

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Señ. 4. or give him leave to lay down Arms, except he was either *Eméritus*, (had served his whole time) or else want of Health and of Ability required it. Yet this had been practised, and Commanders adventured to do it at such time when there was no danger of any Irruption from the Enemy, and the Borders seemed to stand in no need of Defence. *Cretia* appears to have been guilty of this Indulgence, as well as his Brethren, and to have presented an Excuse of this nature to the Emperour, pleading, that in his District there had been no occasion for the Use of his Men. Of this *Constantius* takes notice, as seeming to remit what was "pact to him and his Fellow-Officers, he yet enjoys them, upon this Occasi-
on, to force back to their Arms, all that without Legal Cause had been Dis-
charged."

The Year 351
had neither
Laws, nor
Comitia.

3. From *Mesopotamia* he removed into *Pannonia*, the following year, which was very Notable in this respect, that there were no Laws made in it, (however that appear to us) neither any *Consuls*; at least, for such acknowledged. For though *Magnentius* and *Gaisio* were so made in the *Western Parts*; yet being in the Usurpation, they are not named; and therefore the Year is thus Characteriz'd: After the Consulship of *Servius* and *Negrinianus*. *Constantius*, in his March from *Constantinople*, met with Messengers sent from *Magnentius*, to desire, that with his Approbation he might Reign in the *West*; which he thought he might with the more Confidence ask, because he should be content, that the other might have the Precedence in the Dignity. While *Constantius* considered what to return in Answer, they report that his Father appeared to him the Night following, in a Dream, and holding *Constantius* in his hand, should bid him look upon his Brother, whom, descended from so many Emperours, a Tyrant had Murdered. That therefore he ought to revenge his Death, and not suffer the Imperial Throne to be so much Abused. Awakening in the Morning, he committed the Messengers to Custody, and marching away with all speed, came to *Sardica*, a Town in *Dacia*. But considering the Importance of the Affair, that he might not have two Enemies to deal with at once, he resolv'd, if possible, by some Art or other, to gain over to him *Veterano*, that with his Forces he might jointly make War against *Magnentius*, and so Destroy one Usurper by means of another. Neither was *Magnentius* so dull, as not to apprehend, the like Advantage would make also for his Interest; and therefore each of them endeavoured to make him his own. But *Constantius* came so suddenly upon the Old Man, that the Surprise gave Perfection to his former Inclinations already bent towards him, as most fit for his Friendship and Alliance; would, as the Lawful and Undoubted Emperour, bring sufficient Repute to his Enterprize, and give him an Undoubted Title. Therefore he went out to receive him upon his Approach; who, when they met, embraced him, and called him Father, in respect to his Age; carried him along with him to *Sirmium*, set him at his Table, and consulted with him how to carry on the War.

Constantius goes against Magnentius.

4. Matters being accorded betwixt them, they both ascended the Tribunal, to speak to the Souldiers; where the Dignity of *Constantius* his Original requiring that he should have Precedence in Speech, as well as in Place; by all the moving words he was able, he put them in mind of his Father's Liberality to them, and how many Oaths they had taken to bear intire Affection and Allegiance to his Sons; and therefore he laid before them, how inexcusable a thing it would appear, if they suffered *Magnentius* to go unpunished, who had laid Violent hands upon a Son of *Constantine*, that had been to them so great a Patron and Benefactor. The Souldiers were so much herewith affected, that (being also Bribed lustily) beforehand, if you will believe *Zosimus*) they Cried out, Away with all Counterfeit Emperours, and pulling *Veterano* down from the Bench, drew the Purple over his Ears, and Voted him to a Private Life. Who thereupon cast himself at *Constantius* his Feet, and he, moved by the extreme Age of the man, easily pardoned him his Usurpation; and Confining him to *Prusias*, a City of *Bithynia*, assigned him a sufficient Revenue, and bestitting his Quality, where he spent the Remainder of his days: A man of a rough and ungentle Humour, and very silly. *Constantius* thus rid of one of the Usurpers, and strengthened by the Accession of his Forces, was much encouraged to proceed in his Enterprize, and to March for *Italy*: But seriously considering further of his Affairs, he found the Estate of his own Family but very Uncertain and Ticklish; which, though secur'd from the Usurpations of Strangers, yer was like to fall to Nothing of it self. His Brothers were both Dead, and he himself having no Issue by his Wife, there remained only of his Family, *Gallus* and *Julian*, the Sons of *Constantius*, his Uncle, the Brother of *Constantine* the Great; after whose Death he miscarried, as was before said. Now so

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Post Consul-
tum Sergii &
Nigriniani.

Zosimus ubi
supra.

Propriè ad Stal-
tissimum simpli-
cissimum Pileum.

Señ. 4. long as he himself had hopes of Issue, left they should ambitiously Attempt any thing, he held a strict hand and eye over them, and put them not into any manner of Employment; so not so much, as one observes, as amongst the *Suffetti*, or *Honorary Consuls*. But now perceiving, that by means of these Usurpations, there would be a contest, not only betwixt particular Persons, but Families too, it was in vain to Contest for that, which was likely of it self to fail, if the Succession were not settled in it. He therefore conferred on *Gallus* the Title of *Cesar*, and gave him for Wife his Daughter *Constantina*. Whether more for this Reason let the Reader judge, than that which *Zosimus* out of his palpable Malice to *Constantine* and his Posterity assigns, viz. That he might thereby have an Occasion to destroy him. For after his Death he did the same to his Brother *Julian*, as we shall see. But there was also need, which *Zosimus* and others hint, of having some one in his absente to watch the *Persians*, and secure the Provinces of the *East*. The Care and Endeavour, as we have formerly said, of one Man, not sufficing for the Administration of Authority and Power in all Countries, at so great a Distance.

He proceeds against Magnentius.

5. *Gallus* therefore having then received the new Name of *Constantius*, and being made *Cesar* on the fifteenth of *March*, was sent away to *Antioch*, there to attend the Motions of the *Persians*. *Constantius* was wholly intent upon the War against *Magnentius*, and resolv'd to find him out; but he prevented him, thinking it more prudent to begin elsewhere, than to expect any Action in those he called his own Dominions; and from *Gallus*, and *Italy* departed unto *Noricum*, and thence into *Pannonia*. In his March he sent to *Constantius*, to let him know, that he would expect him in the Plains lying near to *Sciscia*, which the Emperour liked well enough, that Ground being very Convenient for the Fighting of Horse; but was stopped at the Streights of *Adriana* by an Ambush laid for him by *Magnentius*; who much Elevated by the Success, endeavoured to break into the Inner *Pannonia*, desirous to fight near the City *Sirmium*. While he was consulting how to pass his Army over the River *Savus*; one *Philip* came to him on a Message from *Constantius*, under pretence of making a Peace and Alliance; but indeed to make a Discovery of his Strength and Designs. *Magnentius* calling his men together, gave him Audience. To which admitted, he declared his Errand was, to make known to the Army how unfeinly a thing it appear'd, that they who were Subject to *Romans*, should against *Romans* bear Arms; especially having *Constantius*, the Son of *Constantine* the great, for Emperour; that *Constantine*, under whose Conduct they had obtained so many Victories over the *Barbarians*. As for *Magnentius*, he was to be admonish'd to Reverence the Memory of *Constantine*, and call to mind the several good Offices done by that deceased Prince, both to him and his Parents; to quit *Italy* out of a Sense of his Obligations to the Family, and content himself with being Emperour over the *Transalpine* Provinces. This Speech of *Philip* so moved the Souldiers, that they would farcely give *Magnentius* leave to answer. Who in short replied, that he gladly embraced Peace, and would give in his final Determination, the Day following. Then did he invite the principal Officers of the Army to Dinner, and having brought them fully over to his Interest, consulted what to do. The next day he again called the Souldiers together; and to obliterate the Sense they had of what *Philip* had said concerning *Constantine*, he much inculcated the several Affronts they had received from *Constantius*, his Son; and how to avoid these Injuries and Indignities, they had promoted him to the Imperial Dignity; with which or the like Words, they were again so possessed, as to cry out, that the War was to be prosecuted; and resolv'd it was, that they should pass the *Savus*. This being known to those that lay in Garrison in *Sciscia*, on the opposite Shore, they resolv'd to hinder their Passage, and repuls'd such as endeavour'd to land from off the River, or from the Bridge, with such Success, that they routed, and put them to flight, to a great Distance. *Magnentius* seeing into what Danger he was brought, made a signal for a Treaty; and gave Notice, that without the Emperour's leave he would not pass the River. To which *Philip* answer'd; that if he quitted *Italy* and *Noricum*, and departed into *Illyricum*, then would the Emperour consent to a Treaty.

Constantius suffers him to come into the Plains of Pannonia.

6. He pretending to Acquiesce herein, *Constantius* caus'd his men to leave the Pursuit, and suffered afterward *Magnentius* to enter into the middle of the Plains of *Pannonia*, because his own Strength lay most in Horse, and if he came to an Engagement with him, that Place would be most convenient, which lay near *Cibale*, where *Constantine* had formerly defeated *Leinius*. Part of his Army lying now in the Town, he drew a line from the adjoining Hill, all a long the space of Ground

Seft. 4. which at the Foot of it, lay towards the River: by which means he fortified all that Side which the River did not touch; and over the River he laid a Bridge of Boats, which he might remove at his Pleasure. Here entertaining his Officers at a Feast, one *Titian a Roman Senator*, had the Boldness to come from *Magnentius*, and in his Name reviling *Constantine*, and his Sons, to command *Constantius* to quit the Purple, if he would save his Life. With whose Language, though the Emperor was very much moved, yet he suffered him to return unpunished; although *Philip* his own Ambassador, took it by Assault, and laid it even with the Ground; and having waited all the Country lying upon *Savus*, went to *Sirmium* to seize on that too, but was repulsed and defeated in his Councils by the vigorous Opposition made, both by the Townsmen and the Garrison. Thence he departed, and hasted to have better Success at *Mursa*, where yet he was more deceived in his Expectations. For the Inhabitants so strenuously demeaned themselves, and so plied him with Darts and Arrows, that not having with him any Engines of Battery, or other means to approach the Walls, he was very much distressed. And now *Constantius* having Intelligence hereof, quitted *Cibale*, and the Country lying upon *Savus*, and hasted to relieve the Place. *Magnentius* endeavoured by Fire to make his way through the Gates, and this Attempt being also defeated by the great quantity of Water, which the Defendants poured down from the Walls, he then heard of the Approach of the Emperor, and resolved to surprise him by an Ambuscade, laid in a Place adjoining, which was very full of Trees. There he bestowed four thousand *Galls*, with Command, that when the Fight should begin before the Town, they should fall upon the Back of the Enemy; that being on all sides beset, he might not Escape. But Notice hereof being given to *Constantius*, by those that observed it from the Walls; he sent away *Scoldones* and *Manadus*, two *Tribunes*, with the choicest Souldiers they could take out of the *Legions*; who stopping up all the Avenues to the Place, that none might get out, cut off the whole Party.

Magnentius takes and razeth *Sciscia*.

Repulsed from other Places.

Constantius goes to the Relief of *Mursa*.

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Overthrown *Magnentius* in Battle who flies into Italy.

7. *Magnentius* seeing his cunning Devices to take no Effect, then resolved to try what plain and open Force would do, and gave Battel to *Constantius* in the Champion lying before *Mursa*; and so fierce a Battel was fought, with that Resolution and Pertinacy, as in the Opinion of *Zosimus*, none in all this War was like it; which much afflicted *Constantius*, though he himself should get the Better, foreseeing how exceedingly the Empire would be weakened thereby (so many Brave men falling) and exposed to the Attempts of the Barbarous Nations. This made him, while the Fight yet continued, to cast in his mind how to end the Controversie by a Treaty; but the Animosity of both sides was so great, that the Darkness of Night it self could not part them; but they still with their Swords and Spears laid at one another; as if seeking it their Happiness all to dye together upon the Spot. The Officers omitted nothing becoming them, either as Souldiers, or Commanders, and many of them lost their Lives; whereof two or three deserved to be recorded to Posterity. One of these was *Arcadius*, Tribune of the *Alabes*; and another *Monclaus*, who was Captain of the *Armenian Archers*, that fought on Horseback. *Zosimus* tells us how it was reported, that this *Monclaus* with one and the same Bow would shoot three Arrows all at once, and therewith kill three several men; by which Means he destroyed great Numbers of the Enemy, and in a manner was the Author of their Defeat: but being on *Constantius* his side, he was killed by *Romulus*, the General of *Magnentius* his Army, who yet had no great Cause to boast of his Success; except in this, that he killed his Killer; for he first received a Wound from his Hands, which notwithstanding he gave not over till he had revenged it; but of it he died. At length *Magnentius* his men began to give Ground, and a great Slaughter followed; of the Event whereof he being sensible, and fearful that he should be given up by them into the Emperor's Hands, resolved to abandon these Places of *Pannonia*, and get into *Italy*, there to recruit, and try his Fortune another time. And for this Purpose he quitted his Horse, adorned, as he was, with the Imperial Ornaments, and let him go loose, that the Enemy might imagine the Rider to be slain. *Constantius* as soon as it was light, from an adjoining Hill viewing the Plain, and seeing the River, which run by it, full of dead Bodies, wept at the Sight; and being more troubled at the Slaughter of so many men, than joyed at the Victory, commanded, all that died to be buried without Distinction, and suchas were wounded to be carefully look'd to. Some say, that thirty thousand of *Magnentius* his side fell in this Fight. But in few Battels was the Strength of the Empire more impaired than in this, which was fought on the twenty ninth of *August*.

8. Con-

Seft. 4. 8. *Constantius* staid the Remainder of this Year at *Sirmium*, and the greatest part of the next also, as appears by the Dates of several of his Constitutions, made, when he himself was Consul the fifth time, together with *Constantius Caesar*, although *Decentius* and *Paulus* were Named in Italy by *Magnentius*. Into Italy *Constantius* sent some to pursue the Usurper, but without any Good Success, their former Prosperity Engaging them too far in Prosecution. He himself in *Pannonia* attended as well the Civil Affairs of the Empire, as Preparations for a Vigorous Reinforcement of the War, which is Evident from several Laws he made, while he had his Residence in these Quarters. He was a great Favourer of *Eunuchs*, being much Governed by them; and whether at the desire of any of them or no, now Directed an Edict to *Rufinus*, the *Præfatus Prætorius*, whereby he granted them liberty to make Testaments, or Declared them to have Power so to do. For whether they could do it, or not, there was cause of Doubt, for that this Liberty was granted only to those who had arrived at Puberty, whereas *Eunuchs* do not pubesce at all; they being, as the Emperor *Alexander Severus* termed them, a Third Kind of Men; and for that reason *Mimerus* the Consul, denied to *Gensilis* the possession of an Estate, according to the usual way. And though formerly such had Power to make Wills, yet it was not till the Eighteenth year of their Age, at what time Puberty ordinarily is found with all men. But *Constantius* gives them by this Law the same Privilege as others enjoyed, both as to the making of Wills and Codicils, provided the usual Solemnities were strictly observed. But it was his Interest to Oblige other sorts of Persons, besides *Eunuchs*. Removing to *Subaria*, another City of *Pannonia*, by another Edict he removed the Fears of such as were in danger to be cast out of Possession of what had been given them by *Constantine* his Father; that Prince had been the most Bountiful of all others, especially to Churches; and that out of the *Res Privata*, or his own Private Patrimony; which Gifts, while he yet lived, some Persons went about to make Void and Null: and this moved him by several Constitutions to provide for the Establishment and Ensuring of them. Now, being Dead, several Courtiers and *Eunuchs* especially, to have the greater opportunity of getting, endeavoured also to Reduce these Grants to their Fountain, and Restore them to the Emperor's Estate, which he obviates by this Constitution. Being again returned to *Sirmium*, he did a thing Grateful to the Souldiers *Eunuchs*, or *Veterani*, by a Decree directed unto *Helpidius*, the *Consularis* of *Pannonia*, wherein he by him confirmed the Privileges formerly Granted to them; and particularly, Immunity from Personal Services.

9. But *Magnentius*, as we said, being Beaten out of *Pannonia*, went into Italy, and betook himself to *Rome*, whom *Constantius*, when all things were ready for his Expedition, pursued in Person. His Captains, though at first they seemed to have had no good Success, yet now, Animated, as it were, by the Emperor's Presence, had the better of the Tyrant; and *Constantius* himself breaking into *Aquileia*, he was driven from the City, and out of the Country about *Autunus*, or the Month of *September*, and fled into *Gall*. About this very time, to remove Desperation from all that had taken part with him, or been drawn into his Party, *Constantius* published an Edict, whereby he granted free and full Indemnity and Pardon to them, such only excepted, as had together with him, been guilty of the many Murders committed since the Revolt. And the more to inhaunce the just Repute of the Military Profession, by an Edict he forbade, that any should obtain Privileges granted to the *Veterani*, or those that had served up their full time in the Camp; But for a vigorous Prosecution of this and other Wars, all Encouragements would little prevail, if there were not had an especial Care of the Choice of *Troops*, or new Souldiers; concerning which we must acquaint the Reader with a matter of Importance, relating to this very Age whereof we write. They were wont, in old time, to raise *Troops*, or new Souldiers, for Supply of the Armies; but this was nothing comparable to the Invention of these Ages. For now (as is at this day practised here in *England*, in forming the Militia of the Counties) Persons were charged with finding men to serve in the Armies, according to the value of their Lands, or other Estates; which Institution was good and laudable, tending in it self, to the increase of the Power Imperial, and the Defence of the Provinces; but so it was managed, that it proved rather the Destruction of them. For some furnished out, either such as were either unfit for Service, or else Cowards, which absented themselves, and often ran away. Therefore to obviate the Fraud of the Provincials in this Matter, *Constantius* now published another (a) Constitution, for the Proof of the Original, Age, Stature and Condition of such as were sent to serve. Their Original was to be approved, and that before the

Makes a Law in favour of *Eunuchs*.

Confirms what his Father had Granted out of the *Res Privata*.

Pursues *Magnentius* into Italy.

Publishes an Act of Oblivion to draw away his men.

And another Edict about the choice of new Souldiers.

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Seft. 4. *Decuriones*; left that any by betraying himself to the Army, should desert the "Service of Corporations, or any other should quit the Army, and shelter himself" in their Employments. To prevent which, several Laws were made, as we have already hinted. Now the Service which *Legions* performed, was very hard and severe, in Comparison, especially, of the *Auxiliary Troops*; so that in them there was no Fear, that any would list themselves to shun the Services of Corporations; but that of the *Auxiliaries*, being mild and easie, he ordains, that into them none "should be admitted without a Certificate obtain'd from the Judge of the Province, that the Person was no *Decurio*. And lastly, whereas the Age of such as were sent into the Armies was wont to be raw, (and indeed it differed, both according to the Customs of Countries, of several times, and the Laws) he limits it at perfect Puberty (Puberty being always the General Rule, but ordinarily the First, and Beginning) when they had pass'd their nineteenth Year.

10. This Law, we may Rationally enough conclude, was made, on purpose for the more Vigorous carrying on of the War against *Magnentius* in *Gall*; for now was it Prosecuted with all Industry imaginable; and the Success was such, that in the very following Month, after the Date of it, *Constantius* reaped the Fruit of his Labours, and the other received the Reward of his three Years and six Months Usurpation. But the Opposition he made was so Resolute and Pertinacious, that several Fights happened betwixt them, with various Success. At length being Worsted in a place not far from *Lugdunum* (or *Lions*) he betook himself to an adjoining Hill, where, seeing his Men discouraged, even as almost to Despair of any Safety, he made a Speech to them, to cheer their Spirits; to which, when they Accented, as the manner was; by a strange Mistake, they saluted him by the Name of *Constantius Augustus*, instead of *Magnentius*. Herewith, as an ill Omen, exceedingly dejected, he departed to a Village call'd the Hill of *Severus*, belonging to the *Cottian Alps*, and thence sent to the Emperor a Person of Senatorian Rank, about a Peace, whom *Constantius* did not admit to his Presence, supposing him but to be a Spy, as neither several Bishops employed on the same Errand; but, many of his Souldiers falling off to him, halted to find him out, and put an End to the Controversie. *Magnentius* perceiving there was no Place left for Pardon, resolv'd then to do his Worst, and reinforcing his Army, as well as he could, that he might give a Diversion to the Enemy, he sent one away to *Antioch* to murder *Gallus Cæsar*, who afterward was discovered, and suffered as a Traitor. Then followed, at the Place last mentioned, whither *Magnentius* had betaken himself, another Engagement, wherein he was again Worsted, and thence fled to *Lions*. Those that escap'd with him, now utterly despairing of their Cause, resolv'd to give him up to the Conqueror, and for that Purpose watched the House where he lay; which observ'd, drove him into such Fury, that his Friends and Relations that were about him, he first slew with his own hand, and having mortally wounded his Brother *Desiderius*, amongst the rest, at last dispatched himself, left he should fall alive into the Power of *Constantius*, and be put to a lingering Death. Having fix'd his Sword-hilt to the Wall, he ran against it, and so with a great Issue of Blood at his Nostrils and Mouth, as well as the Wound, he let out his Life about the beginning of *August*: For as to the precise Day, Writers differ. *Decentius*, his Brother, halting to his Relief, when he heard of his End, hanged himself, at *Senone*, on the eighteenth of *August*. *Magnentius* was a man of a vast Body, and as extravagant Morals; and thus having reaped the Fruits of his Usurpation, and Tyranny (for he first by murdering his Sovereign, cast dirt upon the *Christian* Name, if a *Christian* he was) the Monarchy of the *Roman Empire* was again devolved upon *Constantius*, in the seventeenth year of his Reign, the eleventh Indiction. *A. D. CCCLIII*; he himself the sixth, and *Constant* (*Gallus*) the second time being *Consul*.

11. The Report of *Magnentius* his Defeat and Death, being arriv'd at *Rome*, *Neposianus Cerealis*, who had been *Præfēt* of that City since the twenty sixth of September of the preceding Year, Erected a Statue to *Constantius*, with an Inscription, Declaring him to be the Restorer both of the City and the World, and the Extirpator of the late pestiferous Tyranny, as he terms it; which Inscription, *Baronius* tells us, by the Mistake of him that Copied it out, was judged to have related to the Times of *Constantine*; but he now restores it to its proper Place, which indeed, had been already done to his hand, whether the Cardinal knew it or not, by *Sigonius*. But *Constantius* coming to *Lions*, that he might take away the Fears of such as had been guilty of the late Defection, and so settle these Parts in their former

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former Obedience to him and his Family, made an Edict bearing Date of the sixth of September, from this City, and Directed to this *Cerealis*, whereby he Grants, as all Wife Princes have been wont, Indemnity and Pardon to all Persons concern'd, except such as had committed any of the five Crimes to which Death, as a Punishment, was Adjudged, and amongst which Murder is suppos'd to have been one, and hereby he made good, what by another Edict he had promised to the Followers of *Magnentius*, to bring them off. And to Quiet their Minds, there was great need of such an Amnesty, or General Pardon and Oblivion; so many having been drawn into Offices and Employments under him, and those not of the Meanest, but often of the Greatest Quality: for not only in *Gall*, but in *Italy*, and the City of *Rome*, *Magnentius* ordained Judges and *Præfets* of the City; he bestowed the Dignity of *Comites*, and the Supreme one of *Consul*. But, lest the Unjust Acts, either of him or his Judges, should have any Force to the Oppression of the Innocent, or such as had stood to their Integrity and Fidelity; by another Necessary Law, he Commanded all such Acts to be Null and Void; which Law, although the Date of it Assigns it to the preceding Year; yet all things considered, we cannot, but, with *Gotofred*, be of Opinion, that it was not made till after the Death and the Destruction of the Usurper; and some Error was committed as to the Numerical Letters, and Assignment of the *Consulship* of the same Persons. For *Constantius* the Emperor, and *Constant* the *Cæsar*, were *Consuls* for three years together. *Christians* do tell us, that several Acts of Cruelty were exercised by the Tyrant towards *Christians*. Heathen Writers speak also of the most grievous Proscriptions made by him, besides several heavy and unjust Laws. Hereof one requir'd half of the Estates of his Subjects, and another permitted Slaves to accuse their Masters. He constrained whom he thought fit to buy Lands, or Things belonging to the Imperial Dignity, and spoiled many of what they had; which whether Lands, or other Matters, were restored by *Constantius* to the right Owners by this Edict; as indeed the Custom was in all well ordered Commonwealths, after the end of any Rebellion or Usurpation; but as we have already said upon another Occasion; Spontaneous Acts, such as Emancipations, Manumissions, Bargains and Transactions betwixt man and man were to be held good, else all would have been unravelled, and put out of Order; therefore by this same Edict he declares them Valid.

12. But foreseeing how upon the Disbanding of so many men, as being old Souldiers, might now receive their Mission, or Ease, great Robberies possibly might ensue, to the great Damage and Regret of the Countries; by an Edict he commanded such (as his Father before him had done) either to apply themselves to Tillage, or to Traffick, and Merchandize under pain of Death: Assigning this Reason, that such ought to lose all Privilege as disturbed the publick Peace; so as if they offended in the least, no Punishment should be thought too great for them. Being rid of the Usurper, to secure the Western Parts; he seized and fortified the Mouth of the *Rhone*, and the Passage of the *Pyrenean* Hills. Then he removed to *Arelatum*, or *Arles*; where for Joy, he celebrated the *Circensian* Games, and obviated an Abuse which was committed by occasion of the Privileges granted to the *Veterani*. For when Letters testimonial were given to them concerning their Service perform'd, the Dignity of *Protectores* (of which formerly) was usually also conferred on them, which was both great in it self, and had great Immunities accompanying it: As, Excuse from sordid and extraordinary Employments, and from ignominious Beating, to which others were Subject; Enjoyment of great Privileges in Traffick; Allowance of the Prescription of the *Pretor's* Court; freedom from finding of *Tribunes* (or new Souldiers) and the like. Therefore well was he that could attain to this Dignity of *Protectores*; and not only the *Veterani* required it, as they might, but *Tribunes* also, and other sorts of Persons sought for it; even those that were obnoxious to, as members of, Bodies Corporate, as *Decuriones*, those that were of Companies, as Tradesmen, and the *Officiarii* or Attendants of Magistrates. Now all these, to prevent such defrauding of the several Bodies, and Magistrates concerned, the Emperors by several Laws, did before prohibit the Enjoyment of the forenamed Dignity and Privileges, and *Constantius* now in particular, forbids them to the *Civiles* (as did his Brother *Constantine* in the like Case) this being a Rule, both with him, and other Princes; as to all sorts of Persons, whether *Civiles*, or *Militaries*, to prevent the deserting of Duties and Services of Places corporate, under Pretext of Relation to, or Privileges received from, the Military Employment.

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Magnentius again Defeated.

Once more Defeated; and

Killeth himself.

A Statue Erected at Rome to Constantius.

L. 5. de Reg. p. 10. de his qui Tyranni. Cod. de lib. 15. Tit. 14.

L. 1. de p. 3. de his qui Tyranni. Cod. de lib. 15. Tit. 14.

13. The former part of the following Year, which was the eighteenth of his Reign, when he himself the seventh, and *Constantius* (or *Gallus*) *Cæsar* the third time were *Consuls*, he continued at *Arles*; but thence removed in the Spring to *Valentia*, undertaking an Expedition against *Gundomadus*, and *Vadomarus*, two Brothers, and Kings of the *Alouans*; who with their frequent Incursions wasted the Borders of *Gall*, and the Provinces thereto adjoining. At *Valentia* he made some stay for the Provisions of the Army, of which the great Floods now abroad hindered the Conveyance out of *Aquitain*. And here he was entertained with unwelcome News out of the *East*; where his Nephew *Gallus* acted the Tyrant and Madman, to such a Degree, that his Government of those Provinces was utterly intolerable. So mightily was he puffed up with the height of his Place, to which from the depth of Misery and Despair, he had been unexpectedly advanced; that, as one who from long Imprisonment in a dark Dungeon, is brought suddenly into the Light, grows giddy and disturb'd in his Phancies, not knowing well what he said, or did, he brake out into all Acts of Extravagance; to which would have been added Violence against him that raised him, had he had as much Power and Opportunity, as Ambition. And if ever his Passions a little cool'd, they were suddenly blown again into a Flame by the as restless and extravagant Spirit of his Wife; a Woman above Measure puffed up with the Conceit of the Greatness of her Birth, having been formerly married by *Constantine*, to King *Amibalianus* (so our Author calls him) his Brother's Son; a very Mortal *Megara*, faith *Amianus*, a daily Inflamer of one, who of himself continually rag'd; and as greedy of Man's Blood, as her Husband. For the more effectual Shedding hereof, lying at *Antioch*; they made use of cunning Spies and Tale-bearers, who insinuating themselves into Company, reported back, not only all, but more than they had heard, and accused several innocent Persons of Treason, and other feigned and heavy Crimes. Under these Pretences, if any one desired to be rid of a Person against whom they bore Malice; it was easie to procure for a good Reward, the party to be made away. There was one *Clematius*, a noble man of *Alexandria*, whose Wife's Mother burning in Lust towards him, and not able to prevail, turned her Love into so great Hatred, that getting Admittance to *Constantina*, by a Present of a Rich Bracelet, she procured a Warrant to *Honoratus*, Comes of the *East*, to put him to Death; which was done accordingly. Some upon mere Suspicion were murdered, and others turn'd out of their Estates to beg their Bread; no Accuser being wont, no not so much as a Slave, which the greatest Tyrants most commonly were wont to make use of, to put some Colour of Justice upon their Proceedings. But left there should be wanting Informers, *Gallus* himself would take the Pains to make Discoveries in his own Person, walking *Incognito* by Night through the City, and in the Greek Tongue, inquiring what People said of *Cæsar*, till he became notoriously known. *Thalassius*, the *Præfectus Prætoris*, who was with him, might have much obviated these Mischiefs, if he had prudently gone about it. But being a man also of an arrogant Humour, he contradicted and opposed him with too much Heat, and at unreasonable times; and sent Informations of all his Actions to the Emperour; not covertly, but (none can tell out of what Design) with Purpose that it should be known.

And by the Indignation of *Thalassius*.

Is hurried into all Acts of Desperation.

The *Barbarians* and without any thing more performed, dispersed themselves throughout the adjoining Mountains. At the same time an Attempt was made by the *Perians*, but

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without any better Success, upon *Batne*, a *Municipium* in *Anthemusia*, a Province of *Osdruna*. *Nobodares*, the General, had Orders to fall upon *Mesopotamia*, as that which lay most conveniently for their Incursions; but the Danger it was expos'd to was a means of its Safety; all the Garisons and ordinary places of the Souldiers Residence upon the Borders, *Præture* & *Stationes Agrarie*, being so well Furnish'd, that he could not with the least hope Attacque any of them. Therefore he Aim'd at this *Batne*, a Town Famous for a Mart held there yearly, about the beginning of *September*, for Wares of no smaller Consequence than those of *India*, the *Seres*, and others Imported both by Sea and Land from other Places. And by the Wilderness adjoining, and the Pastures, he endeavour'd to steal upon the Town; but was timely discover'd, and all his Endeavours that way rendred Ineffectual. The *Saracens* in the mean while had better fortune, who neither being such as the Empire could with its Friends nor Enemies, Roving far and wide, Destroy'd on a sudden all they met with; therein resembling much the nature of the *Kite*, faith our Historian, who, if from on high he spy his prey, with a speedy Wing instantly snatcheth it; and if he be Master of it, stays not so long as to afford any opportunity to the Injur'd Party of Reconcompensation, or Revenge.

15. *Constantius*, in the mean time Wintering at *Arles*, though he had celebrated the *Circenian* Games at the entrance of his *Tricennalia*, with great Magnificence; yet therewith could not be so diverted, as to satisfy his Melancholick and Suspicious Humour. So Fearful he was made of Plots against his Life, by the late Treason of *Magnentius*, that Distrusting all men, he interpreted whatever they did or thought, to be intended against himself; and by the Death of several Persons, rendred the late Victory no way acceptable, notwithstanding the Law of Indemnity we not long since mentioned. For, if Credit may be given to our Historian, such of the Army, or Nobility, or the Middlefort, called *Honorati*, (or such as had born Offices,) who were but Accused, or Slightly mentioned to have been of the Tyrant's side, were first fettered like Beasts, and then either put to Death, deprived of their Estates, or Condemned to Islands, without any Accuser appearing. And this increased the Hatred of the People, hence conceived, that he was Inexorable, and Pardon'd none that were once Sentenced; being provoked by those about him, who would not cease to inculcate, that the Safety of the whole World depended upon the slender Thread of their Emperour's Life. He that most insist'd hereon, and fill'd the Emperour's Jealous Head with Suspicious was *Paul*, a *Notary*, born in *Spain*: one who being like a Thief, crafty in finding out and taking such like as himself, was sent hither into *Britain*, to reduce such Souldiers as had fallen off to *Magnentius*; and having made his Ends of them, and tasted the bewitching Sweetness of Money, was now by his greedy Appetite driven headlong into all villanous Practices against the Lives and Liberties of all sorts of Persons, how innocent soever, that he might go Sharer in their Estates. This procur'd a dismal Tragedy, which in our Writers Opinion, and that deservedly, cast a great Blot upon the Reign of *Constantius*. One *Martin*, at this time govern'd these Provinces, as *Vicar*; who often endeavour'd by his Intercession to stop *Agas Illus* the Career of this Vilany, and procure Rest for those, who had not given any Occasion for Disturbance; and the Contest betwixt him and *Paul* came to that height, that he threaten'd to be gone, and quit his Place, rather than torment his Senies by a continual Apprehension of such Outrages, as he committed. *Paul* seeing how this would put an end to his Trade, resolv'd to put him amongst such as by *Præfectus* *Agas Illus* he had yet refer'd to his false Accusations, and importuned them at Court, that he might be brought up as well as the rest, of which *Martin* having Intelligence, *Agas Illus* made an Attempt to kill the Villain, and when he failed therein, punish'd himself for his Failure in the same kind. *Paul* having thus escap'd, pursu'd his Enterprize, and carried up his Prisoners in Chains (from which he received the Surname of *Catena*) to Court; where some were committed to a tedious and irksome Prison; others deliver'd into the Hangman's hands to be tortured; some procrib'd and sent into Banishment, and others put to Death. This being observ'd for a Rule in *Constantius* his Days, that none escap'd Condemnation in any of these Kinds, of whom it had been but whisper'd, that they were guilty Persons.

Paul, a *Notary*, a covetous and malicious Backbiter.

16. At this time *Memmius Vitrasius Orfitus* was *Præfect* of *Rome* (from the tenth of *December* of the preceding year) a man prudent enough, and understanding in the Practice of Courts; but not so learned in the Liberal Arts, as became a man of his Nobility and Rank; and insolently proud upon this his Preferment. Through his careless Administration great Tumults were occasion'd in the City, for want of

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Gallus Caesar a
Plague to all
Good men un-
der his Power.Constantius en-
deavours to
Master him.Domitian the
Prefect indis-
creetly de-
means himself.He and Mont-
ianus the Qu-
estor murdered
by Gallus his
men.

Wine, which the *Prefect*, of course, was to provide; all forts and Degrees of Men being Degenerated, and nothing Serious or Memorable acted there, as *Ammianus* shews at large, in divers particulars. And at *Antioch* things were more out of Order, where *Gallus Caesar* was a Plague and Burthen to all good men, as well the *Honorati* and *Primates* of Cities, as *Plebeians* (so our Author distinguisheth) and upon a Trivial Occasion had put to Death the Principal *Senators*, if *Honoratus*, the *Comes* of the *East*, had not with a most constant Resolution opposed it: With Bloody, and for that reason Prohibited, Shows upon the Theatre, he was wonderfully delighted. Being on his way to *Hierapolis*, and on a pretended Expedition, the Citizens of *Antioch* put up a Petition to him, to find out some course to prevent the great Scarcity of Victuals, of which they were apprehensive; in answer to which, he did not enter into any Consultation, or make Use of such Means, as other Princes were wont in the like cases; but delivered up into their hands *Theophilus*, the *Consularis* of *Syria*; often protesting that it was the Governor's Fault, if any Inhabitant wanted Necessaries: and this his Encouragement drove the Rabble into that Rage, when it wanted Bread, that they set fire to his House, and so Beat and Abused him, that thereof he died; leaving a Warning to other Magistrates, what they must expect from so Worthy a Prince. This, and other Matters being brought to *Constantius* his knowledge by *Thalassius*, or others, he Resolved, in order to the Maltering of him, first to withdraw his Strength, and under pretence of Danger, which he saw might arise to his Person from the Conspiracy of so many idle Souldiers, as served under him, he removed such Forces as there lay under his Command; bidding him be content with the *Palatine Scholes*, and of the *Protektors*, with the *Scutarii* and *Gentiles*; and enjoined *Domitian*, (now from *Comes Largitionum* made *Prefect*) that when he came into *Syria*, he should by Gentle means labour to reclaim him from these Extravagant Courses. But he being with great speed arrived at *Antioch*, took a quite contrary course; for he did not so much as go to Wait on him, as his Duty was, but with great Pomp passed on to the *Pretorium*; and after this, pretending Indifference, neither came at Court, nor appeared abroad; but keeping himself up, plotted how to destroy *Caesar*: and for that purpose, amongst the Accusations he sent to the Emperor, shuffled in some things, which might better have been omitted. Being, with much intreaty, at last brought into the *Consistory*, without any Complement, or any other expression of Civility, he rashly and indiscreetly bade him be gone, as he was Commanded; and told him, he would have him to know, that in case he did not Obey, he would order both his own Allowances, and those belonging to his Court to be stopped; He, as *Prefect*, having the Charge of Provisions, which to *Caesar* were allowed, and Distributed to his Attendants from the Emperor, as well as to Apparitors, or any other Ministers. Having arrogantly spoken so much, he departed Frowning, being, as he was Born, a Clown; and though often sent for, would come no more into *Gallus* his Presence.

17. *Gallus* hereat vehemently moved, as one who formerly did but pretend, but now in earnest did suffer, and was rudely dealt with; ordered the *Prefect* to be safely Watched, by such of his *Protektors* as he could trust. This being known, one *Montianus*, at this time *Questor*, a man by Nature severe enough, but yet more inclining to Gentleness than the other, as one Concerned by Common Interest: first, Tampered with the Advocates of the *Palatine Scholes*, to whom he inculcated, that these things ought not to be, neither would any Good come of them; and in that upbraiding manner he added, that if such Courses were pursued, they would first Demolish the Statues of *Constantius*, (the usual way of beginning a Rebellion) and then proceed to consider about the Life of the *Prefect*, which was to be taken away. *Caesar* having notice hereof, found his Affairs in a desperate Condition, and therefore Resolving to Fence for his Life and Security, as well as he could caused all the Souldiers to be drawn together, told them, that he and they ran, the same hazard; and that by means of *Montianus*, who Accused them all as Rebels and Traitors, for no other reason, but because he had Committed to Custody the Willful and peevish *Prefect*, who would not know his Contumacious Humour. The Souldiers, who were not given much to Consider, but always greedy of Trouble and Innovation, ran furiously to *Montianus*, who lay near at hand, and seizing on him, a feeble, old Man, and sickly, bound him, and dragged him straight to the *Pretorium* of the *Prefect*, whom, throwing headlong down the Stairs, they bound them both together with cords, and so drew them with haste through the streets,

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Several others
put to Death
by a mock
sort of Justice.Others plainly
murdered by
his Order.Constantius
prepares
against the
Almans.

streets, till they had torn them Limb from Limb; which done, and having trampled upon their Carcasses, and mangled them as they lifted, then they cast them into the River. Being sufficiently moved to this outrageous Act by *Gallus*, they were further Animated by two Turbulent Fellows; whereof one was *Lafius*, who had been suddenly Advanced to be *Curator* of the City, and another called *Sibemianus*, the Head of the *Bajuli*, or *Vestillones*, who carried out the Dead (as is thought) or of the Porters, or such as carried Burthens; who often roared out, that they should make quick Dispatch, and perfect what they had begun; for which he was burnt alive not long after. But because *Montianus*, as he was about to Expire, amongst his Tortures had blamed *Epigenius* and *Eusebius*, only mentioning these Names, and neither their Dignity nor Profession, there was wonderful Inquiry made, who these should be; and before the Matter should grow cold, *Epigenius* the Philosopher was fetched from *Lycia*; and *Eusebius* Sirnamed *Pitacus*, an Eloquent Orator, out of *Mysia* from *Emissa*; whereas the *Questor* meant neither of them; but exclaimed against two *Tribunes* of the Fabricks or Forges (it seems of these Names,) who had promised him a Supply of Arms, in case any such Disturbance should happen.

18. At the same time *Apollinaris*, the Son-in-Law of *Domitian* the *Prefect*, and who had lately the Charge of *Caesar's* Palace, having been sent about some Affairs into *Mesopotamia*, was narrowly leached, by the Souldiers there for Papers, which might manifest the great Design which *Gallus* now had in his Head. Having received News of what had hapned at *Antioch*, and suspecting his own Safety, he withdrew himself, through the lesser *Armenia* to *Constantinople*; but was fetched back by those called *Protektors*, and committed to close Prison. Not long after a Discovery was made at *Tyre*, of an Imperial Robe, which by whose order made, or how it came there could not be known. Whereupon *Apollinaris* the Father, who then governed that Province, was laid hold of, and together with many others, burthened with most heavy, but idle Accusations, and haled to Custody. For now *Caesar* did not at all conceal himself, nor pretended to any Excuse, but with the greatest Impudence ran through thick and thin, making no distinction between Right or Wrong, Just or Unjust, but what his Will and Lust procured. A mock-Court of Justice was erected, a mock-Judge, the *Magister Equitum*, and as mock-Notaries appointed, who carried Intelligence to *Gallus* of all that was said by the Parties. The first that was thus tried was *Epigenius* the Philosopher; who knowing little of the World, could not endure the Tortures; and without pleading any thing of Law, confessed he knew not what, and accused those as compli- cing, who knew no more than himself of the Matter; but *Eusebius*, as one well versed in the Law, demanded that his Accuser should be produced to his Face; denied stoutly what was objected, and plainly called those Proceedings no course of Judgement, but of Robbery and Murder; for which Liberty as an insolent and audacious Slanderer he was, by *Caesar's* command tortured to Death, together with his Fellow-Sufferer, calling to Heaven for Vengeance; yet altogether as unconcern'd as *Zeno* is said to have been; who in the midst of his Torments bit off his Tongue, and spit it into the Face of the *Cyprian Tyrant*, if our Author do not mistake. As for the Robe that was found at *Tyre*; the Workmen there confessed that one *Maras* a Deacon, had written a Letter to procure the hastening of it; but he being apprehended chose rather a painful Death, than to confess any thing. Hereupon great Stir was made about it; and after that many upon slight Presumptions, had been made away: at length the *Apollinaries*, both Father and Son, were sent into Banishment, as was pretended; but being come as far as *Crateræ*, a Town of their own, twenty four Miles distant from *Antioch*, they had there their Thighs broken, and were murdered according to Order. Yet with their Blood *Gallus* was not glutted; but like a greedy Lyon still ranged about for more, the Effects whereof were so various, as *Ammianus* professes, that the Insulting upon Particulars would be too tedious for his Design.

19. Thus groated the *Eastern* Provinces under the tyrannical Government of *Gallus*; when, as we hinted, *Constantius* had removed from *Arles* to *Valentia*, undertaking an Expedition against the *Almans*. There staying for the Provisions of the Army, he was fully acquainted with his Nephews Demeanour, by *Heraculianus*, a *Protektor* Domesticus, Son of *Hermogenes*, who had been a *Magister Militum*, and was killed in a popular Tumult at *Constantinople*. His Vexation and solicitous Thoughts how to redress the Mischief, was diverted for some time, by the Discontents of his Army, which lying at *Cabillon*, was ready to Mutiny for Provisions. This brought *Rufinus*, now *Prefectus Pretorio* of these Parts,

Vide Annotati-
ones Valerij in
hunc locum.

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His Design against them is betrayed.

He makes Peace with them.

The Eunuchs plot against him.

into great peril of his Life, being required to give the Souldiers an account how their Necessaries were so long kept from them; and this was done of purpose, it's thought, that he being the Uncle of *Gallus* by the Mother's side, might Miscarry, and Perish by their Rage; who, besides their usual Fierceness and Animosity against Men of High Place and Trust, were now Irritated by their want of Victuals: but those Concerned, so bestirred themselves, that *Eusebius* the *Protoprius* *Cubiculari*, being sent with Gold to *Cabillon*, therewith underhand Quietied those that were most Turbulent, and in capacity to do Mischief; and so the Army was kept in Peace, and the Life of the *Præfekt* preserved; the Provisions arriving in Abundance, not long after. The Day following they marched, and having passed many Difficulties, besides those Hills that were all covered with Snow, they came at length to *Ramneum* on the Bank of the *Rhine*, where the *Almans* vigorously opposed them. It was thought fit to lay a Bridge over the River; but the Enemy foisted it with Darts and Arrows, that there was no Appearance for Workmen upon the Water, which cast the Emperor into a great Conflict what Course to take, and when unexpectedly, one that knew the Place very well, offered himself a Guide, and for a good Reward to conduct them over, where it was Fordable: and this had by Night been effected, but that the *Almans*, had privately the Design discovered to them by some of their own Country-men, that served in eminent Places in the Army: the Suspicion lighting on *Latinus* the *Comes Domesticorum*, *Agilo* the *Tribunus Stabuli*, and *Scudilo*, who commanded the *Scutarii* Men, who were in those Days accounted the Pillars of the Commonwealth. Yet notwithstanding the *Almans*, whether discouraged by their unlucky *Assessia*, as our Author will have it, or for that they despaired of good Success by Resistance, sent some of their principal Officers or Nobility, to beg Pardon, and a Peace. Their Overtures were not unkindly received; but being long considered of and debated, were at length approved of by the Emperor, and his Council; yet to seem to do nothing without the Knowledge and Approbation of the Army, he resolved to make the Souldiers acquainted with what he little doubted but they would approve. Ascending the Tribunal, and attended by all his great Ministers, after a short Preamble suited to the Occasion, he told them, That if they would but consent, his Opinion was to grant the Requests of those, who sought Peace with so great Submissiveness. His Reasons were; first by a certain Treaty to prevent the Uncertainties of War; that of the *Almans*, instead of Enemies, they might have Assistants and Allies, as they had engaged. The next was, to prevent the Mischiefs, which from their frequent Incurfions, fell upon the neighbouring Provinces, and he added, that he only was not to be esteemed an Enemy conquered, who being overpowered by the Weight of Arms, or number of men, was slain in the Field; but much more he, who was subdued by an unbloody Victory, who voluntarily turned to Obedience out of a Sense, that neither Valour was wanting to the *Romans* against the rebelliously Contumacious, nor Lenity towards such as did seriously desire it. In conclusion, he was minded to use temperately the present Advantage, but left it to them wholly, to consider what was to be done, with this Assurance, that it was not any Sloth or Cowardize that engaged him to such Sentiments, but mere Principles of Modesty and Humanity. He had no sooner spoken, but the Multitude, prone enough to whatsoever he inclined, commended his Councils, and consented to the Peace, taking especial Notice, that little or no Good, but rather much Evil hapned by these frequent Expeditions; for when Wars were managed abroad, great Mischiefs fell out also at home, not usual in Governments united, and of moderate Extent, but in the Empire too frequent by Reason of it's too great Bulk, and the Variety if not usual Disagreement of it's Princes, who often were not virtuously inclin'd, even as at the present time.

20. The Peace being fully accorded, and all solemn Acts, relating thereunto performed, *Constantius* departed for *Milan*, where being now eased of other Cares, he made it his Business with his most intimate Counsellors and that secretly, and by Night, to consult how to suppress, and ruin his Cousin. And it was agreed to prevent any further Acts of Desperation and Pertinacy, that it should by good Words, and fair Promises be effected, under the Pretext of a publick Treaty; that so without any Difficulty or obstacle, being destitute of Assistance, he might be circumvented. These Councils were not approved by several Courtiers, and the *Eunuchs* that attended him, who bearing Malice to *Ursicinus*, the *Magister Equitum* in the East, contended that he was by no Means to be suffered to continue in those Provinces, if none were there left to over-aw him; who having Sons both in respect of their Persons, and Age very acceptable, as well as for their Military Skill,

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Gallus, having lost his Wife, is, exceeding-ly perplexed.

Is persuaded by Scudilo to move towards the Emperor.

Skill, to which they were continually Exercised and Trained up; they whispered, that this seem'd to look towards Usurpation, and that *Gallus*, of his own Nature, being Fierce and Cruel, was by some, on purpose set on, and Animated to these Extravagant Courses; that he being brought into Universal Ignominy and Hatred, the Empire might at length be Transferred upon the Sons of *Ursicinus*. These things thus insinuated, could not but exceedingly perplex *Constantius*, who never had his Ears shut to Arguments of this nature; yet he resolved on the best course, as it hapned, Commanding *Ursicinus*, with the Equipage and Honour belonging to his Degree, to come to Court, under pretence, that they might take Advice what was to be done in this Juncture of time, when the Arms of the *Partisan* Nations threatened the Safety of the Empire. And that there might be no suspicion of any Evil intended him, *Proper*, a *Comes*, was sent to serve as his Deputy, till his Return; with which way of Procedure satisfied, and having the Advantage of the *Vehicular*, or *Cursus Publicus*, he hastened with great Journeys to *Milan*. To get *Cæsar* to Court, no less care was taken; and that he might neither Suspect any thing, his Wife *Constantina* received from the Emperor, her Brother, many kind Letters, wherein he expressed an earnest Desire to see her, which she was cunning enough to suspect, and Apprehend the worst; but she hoped by the Intreaties and Insinuations of a Sister to charm him. They began then their Journey, but it so fell out, that she was suddenly snatched away by a Fever, at a Place called *Ceni* *Gullician* in *Bithynia*, as she was on her way; which cast her Husband into a great Perplexity, not knowing what to do: For now she was gone, on whose Interest alone he could rely. And as for her Brother, considering his Nature, he could not but conclude, that he would be peremptory in his own Opinion; receive no Satisfaction, nor pardon what was past, (being sufficiently inclined to the Destruction of his Kindred) but, if he could compass it, having entrapped him by some Secret Wile, take him at the Disadvantage, and put him to Death. Being now driven to so great Necessities, and expecting nothing but the utmost Extremity, if he stood not sufficiently upon his Guard, he was desirous enough to take the Title of Emperor, if he had had any Encouragement; but he was deterred by those about him; partly for his bloody and fickle Humour, and especially, because they feared the Greatness of *Constantius*, which appeared abundantly able to crush and bring to nought all his Designs.

21. Thus perplexed in his Mind, he received frequent Dispatches from the Emperor, requiring, nay, intreating him, to hasten to his Presence; for that the Empire, neither could, nor ought to be divided, but each of them to succour it, when in a Tottering Condition, as the Provinces of *Gall* at present were. And for an Example of no very old Date, he added, that *Dioclesian* and his Colleague were served by their *Cæsars*, even as by Apparitors, who continued not in any place, but moved to and fro upon occasion; and how in *Syria*, *Galerius*, though in Purple, as he was, walked well nigh a Mile before the Litter of the angry Emperor. Many Messengers were sent, and after all came *Scudilo*, the Tribune of the *Scutarii*, a crafty, insinuating Man, under the vizard of a downright, blunt Fellow; who, by flattering, and serious Discourse mixed together, was alone able to prevail with him to take the Journey; for he made him partly believe, that his Brother and Cousin (as he termed him) most passionately desired to see him; That he had Meekness and Clemency enough to Remit what hitherto had been Committed through Imprudence; and that having made him his Companion in the Empire, he desired he should share also in the Toil thereof; the Northern Provinces now exceedingly requiring his Assistance. As the Apprehensions of such as are near to Destruction, are wont to be Darkened and Perverted, by these vain Flatteries he was brought into vain Hope; and departing from *Antioch*, went out of the Smoak into the Flame, (as our Author tells us the old Proverb has.) And coming to *Constantinople*, as if all things had been well and secure with him, Celebrated there the Horse-Games, and put the Garland upon one *Corax* a Chariot-driver, *Procurator* *Isidore* who had won the Prize. *Constantius* grew more suspicious when he heard of his greater Confidence, and was exceedingly provoked to destroy him. And that in his Journey he might not, out of Desperation, attempt any way to provide for his Security, caused all the Souldiers to be removed out of the Towns, through which he was to pass. Several Great Officers also, under pretence of other Business, were sent to Watch him. After a Tedious Journey, when he was come to *Hadrianople*, (a City standing on the Mountain *Hæmus*, formerly called *Uscudunna*) where he Refreshed himself for twelve days together; the *Theban* Legions which Quartered in the Neighbouring Parts, sent some to Advise him to stay, and offer-

Secd. 4. ed him their utmost Assistance : but the Messengers were so narrowly watcht, that they could not get any opportunity to speak with him. A.D.

22. Now came Letters after Letters to hasten him away, and for his Journey ten Publick Carriages were provided, but all the Attendants of his Court were left behind, except some few that waited in his Chamber, and at his Table ; and so he was hurried away, a miserable Spectacle to look on, Weeping, and bewailing his Rashness, that he should Betray himself in this manner into the Hands and Power of his Enemies ; and otherwhiles Affrighted by the Terror of his Confidence, and Dreams, arising from the Guilt he had contracted by the base Murder of *Domitian*, *Montius*, and many others ; at length he arrived at *Petovio*, a Town of *Noricum*, where he had occasion fully to discover the Snares laid to Entrap him. For now, on a sudden, appeared to him one *Barbatio*, who had under him borne the Office of *Comes Domesticonum*, with *Apodemus*, one of the *Agentes in Rebus*, attended by a Company of such Souldiers as the Emperour had sufficiently obliged, and was well assured, that neither for Pity nor Reward, would they be drawn from Prosecuting such Orders as they received from him. Now without any Diffimulation of what was to be Acted, the House was beset with Armed Men ; and *Barbatio* entering his Chamber, when it was (scarcely light, took away his Royal Apparel, and put on him an ordinary and common Habit ; yet, by frequent Oaths, assuring him, as from the Emperour, that now he had seen and felt the worst. But he bade him rise instantly, and all on a sudden clapping him into a close Litter, carried him away into *Isiria*, to a Place near to *Pola*, where *Grissus*, the Son of *Constantius*, was reported to have been made away. There being close shut up and expecting nothing but Death ; *Eusebius*, now the *Proepositus Cubiculi*, *Pendatius*, a *Notary*, and *Mellobaudes*, a *Tribune*, by order of *Constantius*, came and examined him about those he had put to Death at *Antioch*. To this he answered with a pale and gassy Countenance, that most of them were to be handled at the Instigation of his Wife *Constantina*. Upon Report of this Answer, as thinking it seems it reflected upon his Sister, and consequently on himself too much, *Constantius* fell into greater Indignation than ever, and placing all his Security in the Destruction of *Gallus*, resolved to put an end to his own Fears, and the others Life both together. And for this purpose sent away *Serenianus* (who having been accused of Treason, was only acquitted) *Pendatius*, the *Notary*, and *Apodemus*, the *Agent in Rebus*, to put him to Death, which was executed upon him, as if he had been a Thief, by cutting off his Head, his Hands being bound together ; after which, his Body lay a miserable Spectacle, which had lately been so terrible to Cities and Provinces. But to such an End came *Gallus Caesar*, in the Island *Flascona*, near to *Pola*, (as others write) in the twenty ninth year of his Age, and the fourth (begun) after his Promotion. He was born in *Tuscia*, at a place called *Massa Veterensis*, of *Constantius*, Brother to the Emperour *Constantine*, and *Galla*, the Sister of *Rufinus* and *Cerealis*, Persons, both of them of Consular Dignity, and who had borne also that of *Præfekt*. A man comely enough, and well-proportion'd, of yellow Hair, and a thin beard ; but in Morals differing as much from his Brother *Julian* (of whom hereafter) as *Domitian*, the Son of *Vespasian*, came forth of his Brother *Titus*, in the Opinion of *Amianus*. He ended his Life after such a manner as he had deserved, and that by Command of his Cousin, though there were wroth, how he, repenting of what he had ordered herein, sent other Messengers to stay the Execution ; but *Eusebius* the Eunuch, his bitter Enemy, caused them to be stopped, till all was past, For this Treachery, if so it was, *Eusebius* paid dear afterwards, being put to Death by *Julian*, for having been so instrumental in his Destruction. And *Amianus* observes, how other two, who under the Cover of Perjury and deep Diffimulation laid Snares to entrap him, came to untimely Ends. For *Scandilius* vomited up his Lungs, and died ; and *Barbatio*, who accused him of more Crimes than he committed, being suspected to aspire to greater things than the Office of *Magister Pedum*, to which he had attained, was condemned, and sent out of the World, as we shall see.

23. The News of *Gallus* his Death was brought to *Constantius*, now lying at *Milan*, by *Apodemus*, who having been a notable incendiary betwixt them, now cast the shoes of *Cæsar* (of Purple they were wont to be) down at his Feet ; as if it had been the Spoils of the *Partian* King. The Emperour by his Flatterers was exceedingly elevated, who extolling his Power, and magnifying his Felicity ; put him in mind, how he had brought to nothing the high Thoughts, and Ambition of two Princes, meaning *Gallus*, and *Veteranus* ; which had such Operation upon his unwary Phancy, that esteeming himself rather more than a Mortal, he assured

And made away.

Constantius thereupon exceedingly elevated.

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Juxta Flavianum maritimum in ora Lihornie, non præcædente defensione, ante laqueum, alii dicunt, alii vocant, alii vocant, alii vocant.

Philostorgius l. 4. c. 1. & vide Differt. Gotschedi.

Secd. 4. med the Title of *Lord of the whole World* ; though all this while he pretended an Earnest Endeavour to equal the Morality of the very best Princes. But so open were his suspicious Ears to all Accusations, that his *Eunuchs*, and other fawning Courtiers, procured the Ruin of many Good Men ; and numbers were brought out of the *East* in Chains, to *Aquileia*, where they were said to have been Instruments to *Gallus* his Cruelties and other Disorders. And thither were sent to fit upon them as Judges, one *Arbora*, and *Eusebius*, lately mentioned, the *Proepositus Cubiculi*, both of them very bad bad Men ; both Unjust and Cruel ; who, without any sufficient Evidence, or Discrimination betwixt Innocence and Guilt, Sentenced them ; some, after Torture, to be sent into Banishment, others to serve in the Armies, in the meanest Capacity, and the rest to Death it self. After the slaughter of whom, they returned, as in Triumph, to their Prince. *Constantius* staid some time at *Milan*, for we find him by Subscription of his Edicts there, in the Months of *May* and *June*. Some other Laws he made before the, Dated from this Place, but where he then Resided, is not Expressed ; though probably in some part of *Italy*. The first of these, which are proper to our present Cognizance, is, the very first Law now Extant in the *Code*, concerning the *Agentes in Rebus*, of whom we have already spoken. In this Age, it was a Custom for those who were Members of Corporations, and obnoxious to the Services thereof, to get themselves Entred, as into other several sorts of Employments, and the Armies ; so amongst them also, hereby to shun the Duties and Charges incumbent upon them, as we have already hinted. Now, to prevent this for the time to come, *Constantius*, by this Law (which was Part or Title of a larger Constitution) Defines ; That none, by his Service, amongst the *Agentes in Rebus*, should be freed or discharged from his Relation to Corporations, except he had served the term of Twenty years, which he ordains shall also be observed as a Rule, and Bind the *Scriniarii* of his Palace, the *Cancellarii*, *Largitionales*, and *Officiales* of the *Comes Rerum Privatarum*.

Many cruelly handled upon the account of *Gallus*.

Constantius publishes an Edict in favour of Corporations.

Another to compell Senators to discharge their Duties in the City.

24. By another Edict directed to *Orphitus*, the *Præfekt of Rome*, and Dated seven days after the other, it appears ; That not only the Officers of Corporations, but even Senators, were wont to skulk and keep themselves out of the way, to shun those Charges and Duties which lay upon them. To prevent this, he now signifies, that he had formerly sent his Orders to *Hilvarianus*, the *Præfektus Pretorio*, to Compell Senators to return to the City, that they might be constrained to Discharge those Duties that there lay upon them ; and that such of them as continued their Absence, should, according to the Laws made by his Father, be condemned to bring Fifty thousand *Modii* of Wheat into the Publick Granaries of *Rome*. Now what these Duties were, we have already touched, as, to make known to the Senate the worth of their Estates, that accordingly they might contribute to the *Glebalis Collectio* ; as also to pay what was due toward the Charges of Publick Shows and Pastimes ; an usual Duty incumbent upon *Pretors*, to the Title of whom (and *Questors*) this Law is assigned in the *Code*. This Fine imposed upon Absence was very great : for at this time the ordinary rate of Wheat was an *Aureus*, or Golden *Solidus* for every ten *Modii* ; so that the whole amounted to five thousand *Solidi*. Indeed some years after, in the Reign of *Valentinian*, that Emperour by a Law (as *Suidas* writes) took Order, that no fewer than twelve *Modii* should be sold for a *Solidus* ; but then had he Enhanched the Value of a *Solidus*, as we have already said. For whereas from *Constantine* 1, till his Time, Eighty four of them went to the Pound of Gold ; he cauled out of the Pound but Seventy two to be stamped. This was a heavy Fine for all sorts of Senators ; but by the Law of *Constantine* all were not liable to it ; but according to their Quality and Degree, Condemned as to the Quantity of Wheat. Probable it is, that this of Fifty thousand *Modii* was imposed upon *Pretors*, but a lesser upon *Questors* ; who, as appears by the first Law of this Title in the *Code*, were distinguished both from them and *Comps* in these *Frumentary* Mults. But by this it is evident what great Charges the *Pretors* were at in Solemnizing these Publick Games and Pastimes, to which the People of *Rome* had been so accustomed, from the time that the Riches of the World flowing into that City, had, to please them, found such issues as these ; that when the Reason ceased, they would not be satisfied that the Effects should cease : And Christianity it self could not, but by degrees, and after much time, wean them from those Excesses in Cruelty, and other parts of Immorality, which ordinarily accompanied these Diversilements.

25. These (and some other Laws) were made this year, though uncertain at what place ; but from *Milan* bore Date two others, which seem to have made up but

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Magistratus, f. ut Gradus Doctor illius, qui inter Praeses illiusque fuit.
Cod. 7. lib. 6. Tit. 27. c. 1. d. 1. Mart. Constantinus Augustus illi, qui inter Praeses illiusque fuit.
A. D. 354.

L. 7. de Praetoribus et Questoribus. Dignitas id. Mart. vide Comment.

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Another for providing Wines for his Cellar.

but one Constitution. The first is, concerning the Furnishing of his Cellar with Wines; which, though it may appear a thing of no great Concernment, yet hath been Ennobled by the Disquisitions of such Learned Men, as have Disputed concerning the *Suburbicarian* Provinces. It ordains, That the Wine, which was wont to be served in for the Use of his own Cellar, shall be provided by all the Possessors of Italy, according to the Appointment of his Brother *Constantius*; which, that it may more easily be done, saith he, let that Quantity of Money be contributed by all our *Italians*, which the Moderation of Rufinus (to whom he gives the Attributes of *Clarissimus* and *Illustrius*) the *Præfatus* *Prætorio*, our Parent and Friend, thought fit to be Allowed. So runs the Law, which is directed to the Order or Body of the *Cæsenates*. As to which the Reader must know, that the Provinces were wont as we formerly hinted, to contribute several sorts of Provisions and Materials, termed in those Days, and by the Laws, *Species Annonaria* and *Cellariensis*. The *Annontaria* were (when strictly taken; for in a large sense *Annona* signifies all sorts) Wood, Straw, Fodder and other Necessaries; the *Cellariensis* were the *Esculentia*, & *Poculentia*, Meat and Drink; and not only Drink, as the Word now in English seems to denote. Now both the kinds were contributed for the Use of the Army, the Service of Expeditions, the Maintenance of the *Comites*, and other Governors of Provinces, and to the Prince his own use in his House, which last is that here intended. But the great Question is, what here should be meant by *Italy* or *Italians*; whether all that, which vulgarly went under that Name, or only some Part, or Portion of it. As to this we must know, that of old time, all *Italy* was Subject to a moderate Tax, or Contribution. But when the Empire was embroiled in manifold Wars, and divided betwixt *Dioclesian*, *Maximian*, *Constantius* and *Galerius*; *Maximian* having obtained *Affick* and *Italy* for his share, brought up a new sort of Tax or Tribute of Provisions, which he imposed upon part of *Italy* (and being then but small, afterwards grew very heavy and burthenfome) upon that part, as appears from *Aurélius Victor*, where he lay most commonly with his Army. Now to find out what part of *Italy* this was, we must know where he had his usual Residence, which was at *Aquileia*, *Milan* and *Ravenna*, where usually his Successors, as *Constantine* the great, this present *Constantius*, *Valentinian*, and others afterwards made their ordinary Abode, when they came into these Quarters. The Countries adjoining to these Cities carried the Title of *Regiones Annonariae*, or the Regions of Provisions, being these: *Tuscia*, *Picenna*, *Flaminia*, *Æmilia*, *Liguria*, *Venetia* and *Histris*; and these *Constantine* freed from all Extraordinary Services by an Edict published in their Behalf, in Consideration of those Supplies of Provisions with which they were taxed, to the Use of his own House. In like manner as *Affick*, because it afforded in these Days Provisions to *Rome*, enjoyed the same Immunity. Therefore it to be observed, that the Word *Italy* is taken in four several Significations. First, for whole *Italy*, wherein *Rome* is also included, and the *Suburbicarian* Regions. Secondly, sometimes *Sicily*, *Sardinia* and *Corfica* come under the Name and Acceptation of *Italy*. In the third Place is to be understood by *Italy* what was not taken up by the City, and the *Suburbicarian* Regions, or an hundred Miles about. And in the last place, as in this Law, by *Italy* is meant *Italia Annontaria*, or the Provinces lately mentioned. Now the Law is directed to the Order or Body of the *Cæsenates*; most probably, because, in their Territory which lay near to *Ravenna*, in the Country called *Flaminia*, there being Abundance of the most excellent Wine, that these parts afforded; as formerly *Constantius*, his Brother, so now *Constantius* himself would have his *Italians* (as he calls them) there to buy the Provision for his Cellar.

Takes Care for supplying the Body of the Cæsenates.

26. But by the same Constitution (now divided in the Code into two Laws) he farther gratified this Corporation of *Cæsenas*, which being at this time much emptied, by Reason that the *Curiales* thereof, under Pretence of other Employments and Privileges, withdrew themselves from the publick Service; he took Order for the calling back of three sorts of Persons to their former Duty and Employment. The first was of those, who by Letters had obtained *Honorary* Dignities without any Government; as those of *Ex Præfatus*, and of the Title of *Perfèctissimus*; yet so as they should enjoy the said Titles and Præminences, provided they discharged the Offices in the Corporation, which about this time he ordered in an Edict concerning this Subject, directed to the Citizens of *Carthage*. The second sort of Persons whom he will have drawn back, is those, who pretending to the Dignity of *Senators*, could not shew any Letters Patents, granted from the Prince; for there were two ways whereby the Emperours conferred these Titular Honours, viz. one by Letters obtained for this Purpose, and another by word of Mouth. Now such as had obtained the Letters, he would have enjoy

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L. 6. de Annontaria. Dat. 11. Cal. Julii. tit.

L. 41. de Ducat. tit.

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What Officials were permitted to adore the Purple.

War denounced against the Lætienses.

Who defeat Arbiter.

Yet are they humbled.

the Immunity from Services in Corporations; though other Emperours would not indulge them that favour, and the Law as to this Particular was various and Ambulatory. The third sort which he commands to be drawn back to their Employment, of such as had got themselves admitted amongst the *Officials*, whom he will not have this new Relation to profit, if originally they belonged to the Body of the *Cæsenates*. And yet, if we compare this Law with some others he made this very year, concerning the same Subject, we shall find, that what he here saith of calling back the *Curiales* to their Charges in Corporations, must be admitted with this Exception; provided they had not served as *Officials* the space of five and twenty years, in which Case he forbids that they be forced back to such Employment. But as for them that attended on the Emperour in his Court, as these termed *Ministeriales*, who waited at Table, or in the Pantry, *Pages*, the *Silentiarii* and *Deuoniores* were to be excused, if they had served but fifteen Years. Nay the *Præmulariæ*, who served in the *Compos Publicæ* were excused, if thereon they had attended but ten years. And here it will not be amiss to observe other Privileges at this time granted to the *Officials* by other Laws, which with these now mentioned; and that of the *Agentes in Rebus* seem to have made up one and the same Constitution. The first is, that they were permitted to adore the Purple; which Ceremony heretofore we have touched. At first this was only granted to the *Officials* of the higher Dignities, as to those of the *Præfatus* *Prætorio* (who in this Age were properly called *Cobortales*, though this Name afterward, and that of *Cobortales* was also given to them that belonged to the Governors of Provinces); the *Præfatus* of the Cities; those of the *Magistri Equitum* and *Pedum*; but here *Constantius* limits it to those of them only who had done Service, and been present in all Expeditions. This Privilege was also given to the *Numerarii* of the *Præfatus* *Prætorio*, after they had served up their three years; to the *Comitarius* also, as well as the *Principales* of the Office, after their Term was out. These belonged to the highest Dignities, or to those styled *Illustrius*; and to some others also it was indulged to adore the Purple once a year; as to the *Officials* of the *Vicars*, and to other Officers of such Magistrates, as bore the Title of *Speñtabilis*, as *Proconsuls*, the *Comites Rei Militaris*; the *Præfatus Augustalis*; and some *Duces*, as those of *Scythia*, *Mæsa Prima*, *Mæsa Secunda*, and *Dacia*. The *Principals* of their Attendants were permitted to Adore, at the going out of their Offices; but some did it with those that were of *Proconsular* Dignity, viz. they that belonged to the *Proconsul* of *Asia*, *Comes of the East*, the *Præfatus Augustalis*, the *Vicars*, and the *Comes of the Egyptian* Limit. Others only were permitted to do it amongst the *Protektors*, as those that appertained to the *Duces of Scythia*, *Mæsa*, and *Dacia Ripensis*. But this Honour was utterly denied to the *Officials*, though they were the *Principals* of those Governors of Provinces, who had but the Style of *Clarissimus*; which Honour this Privilege accompanied amongst others, that being admitted once to it, they could not be forced away to any other Employment, as in Corporations.

27. But to Prosecute the Acts of *Constantius* of another nature. While he employed himself at *Milan* in making Laws, and in too strict Inquisition after Offenders, word was brought how the *Lætienses*, a People that inhabited some Villages upon the Borders of *Germany*, made frequent Incurfions into the *Roman* Pale; and it so appearing, War thereupon was denounced against them. The Emperour in Person undertook the Expedition, and came into *Rætia*, and the Plains called *Campi Canini*; where a Council of War being held, after a long Consultation it was Resolved, that *Arbiter*, the *Magister Equitum*, with the Choicest part of the Army, should, by the side of the Lake called *Lacus Brigantie*, through which the *Rhine* passed, march away, and fall upon them. *Arbiter* did as his Orders Enjoyned, but the *Alamans* having timely Notice of his coming, lay in wait for him, and so Distressed him, that his Men ran away, and most of them, by the Darkness of the Night, escaped, and got back to their Fellows; although a great number of them was lost, and with them no fewer than ten *Tribunes*. With this Success the *Alamans* exceedingly animated, renewed their Excursions, and made frequent *Sallies* before it was light, well high as far as the *Roman* Camp. The *Scutarii*, provoked by their Insolence, made some Opposition, but finding themselves too weak to withstand their Violence, did what they could to animate the whole Army to joyn with them; yet had the Memory of the late Defeat made such an Impression on their Phancies, that only three *Tribunes* went in to their Relief, by name *Arintheus*, *Senianchus*, and *Bappo*, who taking their Advantages as they could, without any set Form of Battle, did so great Execution, that they put the Enemy to a shameful Flight.

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Flight, and made great Slaughter of them, while one hundred another from getting away; which the rest of the Army eſpying from the Camp, was then ſo hardy as to give the Chace, and kill thoſe that were Conquered to their hands. This done, and great multitudes left dead upon the place, the Emperour returned Merrily, and as in Triumph, to Milan, and there took up his Winter-Quarters.

and the Emperour returns to Milan.

A strange Device against Syllanus.

28. There he had not made any long Continuance, when his Jealouſie and Credulity brought upon him ſuch an Inconvenience, as under it he might eaſily have Miſcarried. At this time Gall was very much haraſſed by the Inroads of the Neighbouring Barbarous Nations, whom, waſting it at their Pleaſure, with Fire and Sword, Syllanus, then the *Magiſter Pedum*, oppoſed ſo Effectually, as to Reſtrain their Violence, being ſent away upon this Service by *Arbeto*, who, for this year bore the *Conſulſhip* with *Lullianus*; and that by the uſual trick of Emulating Courtiers, who are wont to put their Rivals in favour, upon ſome tickliſh and dangerous Employment. *Dynamius*, that overſaw the Emperour's Carriage-Beaſts, had deſired Commendatory Letters from Syllanus, as his Intimate Acquaintance, which he Simply and honeſtly, as not imagining the leaſt Inconvenience would follow, Granted under his Hand. Theſe Letters *Dynamius* kept, till he could find an opportunity to do him miſchief; and at length, his Envy being further provok'd, when he ſaw him buſily employ'd againſt the Barbarians in Gall, he took in the Advice and Aſſiſtance of *Lampadius*, *Preſeſus Pretorio*, *Eufebius*, formerly *Comes Rei Private*, who had the Surname of *Mattiocopa*, and *Ridelus* the Ex *Magiſter Memoriae*, then *Preſeſ*. They raze out all he had writ in the Letters, only leaving the Subſcription intire; and in the room thereof, deviſe an Exhortation to his Friends at Court, and others, amongſt whom was one *Fufcus Albinus*, to Aſſiſt him in his Deſign, which was no leſs than to take the Purple, and Uſurp. This Paper is produced, and *Dynamius* appointed to make Inquiſition after the Treafon. Such as were named in the Letter, and they could then come by, were taken into Cuſtody, and Officers ſent to Apprehend others that were in the Provinces. This making a great Noiſe, as well at the Court, as elſewhere; *Malarich*, who then Commanded the Souldiers called *Gentiles*, and was appointed to go and fetch Syllanus, Exclaimed fore againſt it; affirming, that thoſe Perſons were Innocent, and merely, by the Tricks and Inventions of their Enemies, Circumvented and brought into Danger. Yet notwithstanding, at the ſolicitation of *Arbeto*, was *Apodemus* ſent with Orders to him, that he ſhould come up; that *Apodemus*, who was an inveterate Enemy to all Good men, who coming into Gall, never ſent him the Orders, nor let him know on what Errand he was ſent; but Aſſociating himſelf with the *Rationalis* of thoſe Parts, began to Vex and Diſturb the Friends and Clients of the *Magiſter Pedum*, as one already Proſcribed, and to be put to Death. While the Arrival of Syllanus was expected, and *Apodemus* thus behaved himſelf in Gall, *Dynamius*, to gain Credit to what he had already done, reſolved to add one Cheat to another. He frames another Letter in the Name of Syllanus and *Malarich*, to the *Tribune* of the Fabrick at *Cremona*, whom, as Conſcious to their Plot, it Adviſes to have all things in readineſs, and that ſpeedily. The Man was Exceedingly Diſturb'd at what he had read, not knowing what it ſhould mean, nor remembering, that ever he had any Intercourſe with theſe Perſons concerning any Matter of Secreſie or Concernment: therefore he ſent away the Letter to *Malarich*, beſeeching him to tell him plainly what the meaning was; for he was, for his part, ſo Simple and Ignorant, that he could not underſtand it.

A notable Cheat diſcovered.

29. *Malarich* heret at ſuch concern'd, as one whoſe Safety was brought into ſo great Hazard, bewailed his own Condition, and that of Syllanus his Countryman, and opened it to the *Frankes*, of whom a great Company in thoſe Days flouriſhed in the Palace; and now more openly than before inveighed againſt them by whoſe ſubtile Devices they were ſo much endanger'd. The Emperour acquainted therewith, by Advice of thoſe of his *Conſistory*, and the Military Officers, gave Order for a ſtrict Inquiſy into the Matter; and the ordinary Judges evading the Buſineſs, *Florentinus*, who then executed the Place of *Magiſter Officiorum*, more narrowly ſearched into it; and ſeriouſly viewing the Letter pretended to be writ by Syllanus, diſcovered evidently ſome Remains of the Character, wherewith the Commendatory Epiſtle had been writ, and a manifeſt Interpolation. Hereupon the Emperour abrogated the Authority of the *Preſeſ*, and ſubjected him to Examination; but by the Conſpiracy of many together, whom he had made his Friends, he eſcaped as well as the reſt, and *Dynamius* was honoured with the Dignity of *Correſtor of Tuſcia*. In the mean time Syllanus being advertiſed by his Friends how his Affairs ſtood, conſidering how induttrious his Enemy *Arbeto* was to

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Arbeto

Lullianus

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to deſtroy him, and how tickliſh and credulous the Humour of the Emperour was wont to be in ſuch Caſes, was very apprehenſive, that he ſhould be condemned Abſent, and Unheard; and as one exceedingly perplexed, and not knowing what to do, had ſome thoughts of committing himſelf to the Fidelity of the Barbarous Nations; but *Laniogaiſus*, a *Tribune*, telleth him that there was little Doubt, but the *Frankes*, from whom he was defended, would betray him for a Reward, or elſe kill him; he then after ſome ſecret Conſultations with his Officers, and great Promiſes made them, aſſumed the Imperial Habit (taking the Purple which was upon the Engines or Standards, as the Cuſtom of Uſurpers was, till they could provide themſelves of Robes) as thereto forced for his own Preſervation. The News thereof flies ſalt to Milan, and arrives there in the Evening, bringing ſuch Aſtoniſhment and Fear to *Constantius*, that in the ſecond Watch of the Night, all his Council was ſummoned to the *Conſistory*; whither being come, every one's Courage and Tongue failed him; but at length, upon Inquiry, who ſhould be ſent againſt the Uſurper, mention was made, yet coldly, of *Urfcinus*, as a man exceedingly ſkill'd in Military Affairs, though of late diſgraced. Him they ſent for by the *Magiſter Admiſſions*, to do him the more Honour; and being entred the *Conſistory*, the Purple was given him to kiſs; and ſo he who not long before, through the malicious Inſinuations of the Court-Backbiters, was termed the *Whirlip of the Eaſt*, and ſaid, by means of his Sons, to aſſume at the Sovereignty; now was called a moſt prudent Captain, and ſpoken of with ſuch Reſpect; as was due to a Fellow-Souldier of the great *Constantine*, as one alone fit to extinguiſh the Rebellion by honeſt, though cunning and crafty Means. By his Endeavour they concluded, that Syllanus would be brought to Ruin; or elſe he, whom they ſuſpected as Angry ſtill, and revengeful for the Injuries he had receiv'd, would miſcarry in the Attempt. In both or either of theſe things, they thought they could not but be Gainers.

urſcinus ſent againſt him,

who entraps and procures him to be ſlain

30. Conſultation then being had of haſtening his Journey, he thought it convenient, before his Departure, to clear himſelf of thoſe things formerly laid to his Charge, and began to reſell the Accuſations. But the Emperour interrupted him, ſaying; that now it was needleſs, and unreaſonable, when ſuch danger impended. A Debate was then held about the method wherewith Syllanus ſhould be attacked. And it was reſolv'd; that, as if *Constantius* knew nothing of his aſſuming the Title, Letters ſhould be writ to him to accept of *Urfcinus* for his Succeſſor, and return to Court, with the Dignity and Place he formerly enjoyed. Then was he diſpatched away, and took with him (for he had deſired that he might have that Liberty) ten domeſtick *Proteſtors*, amongſt whom was *Ammianus Marcellinus* himſelf, who wrote the Hiſtory; and *Verinianus*, his Colleague. They uſed all the Speed they poſſibly could to prevent the Fame of their coming; but notwithstanding all their Diligence, the News flew before them to *Collein*, where they found a great Multitude, and many Forces met; and therefore they reſolved by all fair Means poſſible to addreſs themſelves, and colour their Deſigns, by the ſpecious Show of Obſequiouſneſs; conſidering alſo how near they were to moſt certain Deſtruction. *Urfcinus* therefore taking this couſe, was kindly receiv'd, and kiſſed his Purple, as the manner was of ſaluting Emperours, for which he was Admitted into Inward Familiarity, to his Table, and into the moſt ſecret Conſultation what was now to be done for their Joynt-Concernments. Syllanus would ever and anon be complaining, with much Indignation, how moſt unworthy Perſons being preferred to the *Conſulſhip*, neither he nor *Urfcinus* ſhould be thought worthy of any ſuch Honour, but on the contrary, moſt unhandſomely Treated; the one by Falſe Accuſations and Sirmiſes of Treafon, and the other by being hurried away out of the Eaſt, and Expoſed to the Crafts and ſubtil Practices of his Enemies. This Security and Confidence of his, gave good Encouragement to *Urfcinus* and his Companions; but the Army uſw wanting Pay, began to talk of paſſing the *Cottian Alps*, which Terrified, and forced them to venture upon the Execution of what they came about. They therefore tampered under hand, by fit Inſtruments, with thoſe Companies called *Braccati*, and *Corvinti*; knowing them of an inconstant Humour, and eaſily to be moved by the Temptations of Gain and Advantage; and ſo thoroughly wrought with them, that early in the morning they ſet upon thoſe that Guarded the Palace, and having killed them, drew Syllanus out of a Chappel whither he had fled, and cut him in pieces. So periſhed a Captain of no mean Merits, whom the Craft of his Enemies, joyned with the Emperour's Credulity, had forced to this Uſurpation, merely for his own Security; for though he knew, he had ſufficiently obliged *Constantius*, by delivering over the *Armature* (of which he was *Tribune*) to him before the Battel of *Murſa*, and beſides his

That Due proſtitution, or Conſtantius Magiſtrat Commiſſion.

own Deferts, could plead the Services of his Father (*Bonitus* by Name, and a *Frank* by Nation) performed to *Constantine* in his Wars against *Licinius*; yet he assured himself all these would not over-power the Natural Jealousie and Credulity of the Prince. *Ammianus* relates, that before his Death hapned in *Gall*, the People in the Great Cirque at *Rome*, uncertain upon what ground, or whence moved thereto, cried out, that *Sylvanus* was overthrown.

31. *Sylvanus* thus having Perished, *Constantius*, as delivered from a Dangerous Rival, thence conceived extraordinary Joy, but made no good Use of so great a Deliverance: for he grew, as more Confident, so more Insolent and Proud; and, like to *Domitian*, as he hated all that Gallantly Demean'd themselves, he was so far from Commending what was done, that he pick'd a Quarrel about some Publick Money, that he pretended *Urbicus* and his Followers intercepted in *Gall*, and sent Orders to have a strict inquiry made about it, whereas there was never any such matter. It was in a manner his whole Employment to brag of his own Power and Greatness; to which Vanity he was much incited by the egregious Flattery of those about him; and indeed he would not endure any, but such as were endued with that Faculty: for as a Prince is, so is his Council and Attendants. Bad Princes are usually served with such like as themselves, which please them best; neither are Wise Counsellors chosen, but by those that have good Understanding. It cannot be, but the next thing we hear of *Constantius* is, that he is busily industrious to make Inquisition, and frame Processess against those of *Sylvanus* his Party, using the Diligence of *Paul*, that Flagitious Accuser and Incendiary. To begin the work, *Proculus*, the Domestick of *Sylvanus*, is put to the Rack; a man lean and sickly, who not able to endure the Torture, would accuse, right or wrong, and bring Numbers into Trouble, as all men feared; but it fell out quite contrary. For, being warned in a Dream, as he affirmed, that he should not name any Innocent Person, he endured the Pains, almost to Death, with wonderful Constancy, and without Accusing, or Mentioning one man; ever affirming, that what *Sylvanus* did was merely out of Necessity, and not Ambition; which he evidently Demonstrated by this passage. That having paid his Army five dayes before he Assumed the Imperial Title, he then used the Name and Authority of *Constantius*, and Exhorted them all to be constant in their Fidelity to him; which he would not have done, if he had had then any such Design; but certainly have employ'd that Treasure for his own Advantage. This, as Matter of Fact, there were many that could Attest. Yet notwithstanding was he put to Death, and after him *Pennecinus*, as also *Aclepiodotus*, *Lutto*, and *Mandio*, of the Degree of *Comites*, with many others.

32. This, we must believe from our Grave Historian, was the Humour and Behaviour of *Constantius*; although, if from him, and others, we were not assured thereof, an Edit made by him about this very time, and Directed to the People, would induce us to think him rather of a contrary Disposition. For herein he Ordains, That no man whatsoever receive any prejudice from Libels, which neither with himself, he saith, nor with the Judges, have any place; and he gives this Reason, He is esteemed Innocent who wants an Accuser, though he want not an Enemy. By the Date of this Law it appears, that it was made at *Milan*, and after that he had there taken up his Winter-Quarters. *Gothofred* thinks it made in relation to what passed after the Death of *Gallus*, when the Emperours Ears were so open to the Insinuations and Flatteries of his Backbiting Courtiers. But from the late Date it bears of the last of *October*, I should rather judge it to have had respect to what hapned after the Death of *Sylvanus*; and that when he was wearied, if that was possible, with the many Accusations and Inquisitions. But as that learned man observes, he who was credulous otherwise enough, yet thought fit to put a stop to scandalous Libels; and he gives a very good Reason, *viz.* that he ought to be just Inventor of Grace he made this same year, and dated from the same Place, though three Months before the other; by which he gives free Liberty to the Provincials of *Africa*, freely to meet in Councils, to deliberate therein, make Decrees or Resolutions, and send up their Messengers, with their Petitions or Desires then and there resolved on, to the Prince. We have already spoken of such *Legati* or Messengers, as were wont to be sent up to Court from the Cities, or Corporations. But besides these, there were others employed by the Provincies on such Errands, which were agreed on, or approved in their Provincial Meetings or Assemblies.

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These Meetings which were termed *Concilia*, and consisted of the *Primates* of Cities, were either ordinary, or extraordinary. The ordinary were held once a year, the extraordinary upon the like Occasions, called together by the *Præfatus Pretorio*. If any Necessity urged, if they were oppressed, or any publick Grievance required their Complaint, they sent it up to the Emperour by their Messengers; of old, not without leave first obtained from the Magistrate of the Province. But it seems at this time, there were some that spake against these Messages, as useless, such as derogated from their Authority, or fearful they should therein be accused, as some way or other abusing their Power. Therefore *Constantius*, upon the Complaint of those concerned, gives them, by this Edit directed to *Taurus* the *Præfatus Pretorio*, full License and Authority to make known their Grievances: forbidding the Magistrates to Interpose or Hinder them. In like manner as this very same year, he also encourages Appeals to be made to him, which for fear of the Judges were forbore. In the Law concerning the Assemblies, he uses this Expression: *Let no Dictator hinder the Meetings; let none speak against the Councils*. By *Nallas* igitur, which word *Dictator* may either be meant Figuratively, such as imperiously interposed in this Case, or properly some Magistrates of certain Cities, who bore this Title. But to our History.

33. At this time *Leontius* govern'd *Rome* with great Equity and Moderation, and by his extraordinary Courage and Prudence quieted the People, which was false into Sedition, for want of Wine. But in the mean time *Constantius*, at *Milan*, was much disquieted by continual Reports of the Disturbances that hapned in *Gall*, where the *Barbarous* Nations wasted the Country without Controule. He was very doubtful what in this Case to do; for he himself had no mind to stir out of *Italy* into any remote parts, and therefore must have some other, to repress the *Barbarians*, who should be furnished with sufficient Authority for so great a Command. He thought therefore of promoting *Julian*, the Brother of *Gallus*, to the Dignity of *Cæsar*; and when one difficulty pressed upon another, communicated his Design to those about him; protesting, that he alone was not able to undergo so weighty a Burthen, as that of the Empire. These Flatterers manifested a great Desire to draw him from his Purpose; affirming, that nothing was so difficult, but his most powerful Courage, and Conduct was able to manage it: and they suggested (perhaps their own Consciences provoking them) that he ought to beware of the Name of *Cæsar*, putting him in mind of what had hapned in Relation to *Gallus*. So obstinately they behaved themselves in the Matter, that they had diverted him, if the Emperors had not concerned her self: and, whether out of an Aversion to Tedious Expeditions, or her own Native Prudence, fully persuaded her Husband to pursue his Intentions. *Julian* had lately been sent for out of *Achaia*, and wore the *Pallium* still, as a Philosopher, having all this while applied himself to Study. But now *Constantius*, having called the Army together, mounted the Tribunal, for this purpose made higher, and more Conspicuous than ordinary; and taking him by the hand, Addressed himself unto the Soldiers. In fair words he told them, That after the Overthrow of several Tyrants and Usurpers, that had set up for themselves, the *Barbarous* Nations had broken the Peace, and Invaded *Gall*; and this begat their Confidence, and encouraged them so to do, that he many times was necessarily employed in other remote Parts of the Empire. That if they would approve thereof (for the *Roman* Emperours were wont so far to descend in Matters of greatest Moment, as to make their Soldiers their Counsellors) he had found out a way for repressing their Insolence, and preserving the Borders; which was to dignify with the Title and Authority of *Cæsar*, his Cousin *Julian* a young man, as they knew, notable for his Modesty; and one who gave hope, that he would prove industrious. As he was going on, the Assembly interrupted him, telling him, it was the Will of *God*, that so it should be. To which he answer'd, that in Compliance with his and their Desires, he would give him the Robe, and therewith put the Purple upon him, and declared him *Cæsar*. Then, with a grave and sober Countenance, giving him the Title of *Most Loving Brother*, he told him, he esteemed it the greatest part of his Glory, that he had Opportunity to confer this Dignity, in a manner hereditary, to so near a Relation. That now he was to be Assistant, and Partaker of his Labours and Perils, and he committed to him the Care and Protection of *Gall*; wherein, if there should be need of Fighting, he must himself be present in the Front of the Battle; by his Example and Advice to encourage the ordinary Soldiers, and make his own Eyes the Discoverers of the Merits, or Demerits, of his Men. He added, That he being himself Courageous, was now to undertake the Command of a

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Señ. 4. Stout and Valiant Army. That he should find him ever Loving, and Affiant to him; and he hoped by God's Assistance, they should Govern the Roman World with equal Piety and Moderation. What he had said and done, the Soul-diers Approved by their usual Sign, which was, to make a noise with their Targets upon their Knees; whereas they were wont, on the contrary, to testify their Anger, or Sorrow, by beating their Shields with their Lances; and few there were but exceedingly Rejoyced; and (as our Author tells us) Admired the Person of the New *Cæsar*, as prefiging Wonderful Things to be Achieved by him. This passed at *Milan*, on the sixth of *November*, in the Consulship of *Arbeto* and *Lollianus*, as *Ammianus* expressly writes.

Julian marries Helena, the Sister of Constantius, and goes into Gall.

34. *Julian*, a few days after, received in Marriage *Helena*, the Sister of *Constantius*; and, all things prepared for his Journey, set forward for *Gall* on the first of *December*, with a small Train, which *Zosimus* writes to have consisted but of three hundred and sixty Persons, having been brought on his way by the Emperour, as far as a Place (thought to be *Duris*) famous for two Pillars Erected betwixt *Laumellum* and *Ticinum*, or *Pavia*. He came to *Taurinum* (or *Trent*) where he first received the sad News of *Collein*, then a Famous City in the Second *Germany*, its being taken and razed by the *Barbarians*; which the Emperour had notice of before, but concealed it, lest he should be Discouraged. With this he was much Dismayed, as Ominous to him at his first Undertaking, and was often heard to Complain, and say, that he got no more by his Preferment, than to Perish with greater Tumult and Business. Being arriv'd at *Vienna*, he was received there with great Applause by all sorts of People, who Rejoyced, as upon the Rising of some Lucky Planet, and at the sight of their Deliverer. And an old blind Woman, asking who it was that made his Entrance, upon Answer that it was *Julian*, Replied, and cried out, that He should Restore the Temples of the Gods. Having here entered his first Consulship, which the Emperour bore (together with him) now the eighth time, and passed over the Winter in Anxious Cares and Consultations, he received Intelligence, that *Angustodunum* was Besieged by the *Barbarians*; a City of great Antiquity, and Large; but so Ancient, that with Age the Walls were well nigh Consumed. To its Succour he moved, and Arrived there on the Twenty fourth of *June*, where he found not the Enemy, who, it seems, durst not abide his Coming; and therefore he Resolved to pursue him; and for that purpose taking only the *Catapacti*, and *Balistrari* along with him, though but a slender Guard for his Person, Marched with speed to *Autodunum*; where having made a short stay for Refreshing himself and his Army, he halted away to the *Tricassin*, and there so entertain'd those Rovers, who in great multitudes Engaged him, that some he Took, more he Kill'd, and the rest he put to Flight; though far he could not pursue them, by reason of the heavy Armour which his Souldiers wore. After this Action he departed to *Rheims*, and ordered the Army to be in a readiness, and stay for him; *Marcellus*, the Successor of *Ursicinus*, then Commanding, though *Ursicinus* himself was Ordered also to stay in those Parts till the end of the Expedition. Thence, after Serious Deliberation, did he march against the *Almans*; who, taking the Advantage of a wet and dark Night, fell upon his Rear, through places which they themselves alone knew; and had cut off two *Legions*, if upon a sudden noise made, the best of the Army had not gone in to the Rescue. Perceiving hence, that there was no proceeding without being endangered every day, by reason of their Knowledge of the Country, and his own Ignorance; he resolved to make himself Master of the Cities upon the Borders, wherein he might lye securely, and thence make Excursions, as he saw convenient.

Puts to flight the Almans.

Seizes on Places lying upon the Borders of Germany.

35. After a prosperous Fight against the *Germani*, who endeavoured to hinder what he had Designed; he got possession of *Brotomagus*, and thence made for *Collein* (*Agrippina*, our Author calls it;) which had been Razed before his coming into *Gall*, in the Country adjoining to which, there was no City to be seen, nor so much as a Castle; only at the Place called *Consuenti*, where the *Moselle* and the *Rhine* do meet, there was a Village, by name *Rigodulm*, and one Tower or Fort, near to *Collein*; for it's reported, that to give Disturbance to *Mageninus*, the Emperour *Constantius* procured the *Barbarians* to break into the *Roman* Pale, where they destroyed above forty Towns. In *Colein* he abode so long, till he had made a Peace with the Kings of the *Francks* (the Fury of whom now Abated;) and received of them a strong Town. With which Prosperous beginnings Encouraged, he Resolved to take up his Winter-Quarters about *Trier*. Here he found himself Involved in various Difficulties. The Garrison-Souldiers had forsaken their Posts, and

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Constantius Aug. 8. Julianus Cæsar Cæsi.

Ammian. Mar. lib. 16.

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and were to be brought back to the Places most Exposed. The Neighbouring Nations had Conspir'd together against the *Romans*; in their Councils they were to be Disunited, if possible, and the Army wanted Provisions, which in the chieft place was to be considered. But, as Cares for the future are wont to be forgotten, when present Necessities fall upon us; he had Diversion given him by the Enemy; who, having learned from some Fugitives, that those of the Army, called *Scitarii*, were absent; and that the *Gentiles* were Dispersed through the Country for convenience of Quarter, laid Siege to *Senona*, where he now lay. He himself, with his Officers, watched Day and Night upon the Walls, having a great desire to make a Sally; but his Numbers being too scant for such an Attempt, he yet Manfully held it out, till the Besiegers, being tired, and having no hope to prevail, went their Ways. All this while *Marcellus*, the *Magister Equitum*, quartered not far off, neither was he ignorant what Danger *Cæsar* was in; yet never stirred to his Relief, notwithstanding his Duty had been to succour and preserve the Place, though *Julian* had not been in it. But he thus delivered, applies his Care to the Refreshment of his men, though the Country, so harassed with the Wars, afforded little Advantage. However by his Industry he procur'd Supplies elsewhere; and as to himself, though his Allowance was good from the Emperour, he was contented with the Diet of an ordinary Souldier; and so lived as if he had governed himself, according to the sumptuary Laws, or after the Rules prescribed by the *Rhetor* of old, *Lycurgus*, for so our Author writes; who further adds, that as *Alexander* of old, so he now appointed the very Nights, not only to sleep and rest; but to two or three Employments, of publick Business, and his private Studies; yet, he more strenuously than the other: for *Alexander* held in his Hand a Silver Ball out of the Bed, under which was set a Basin of Brass, that when, through Sleep, he let it fall, it might make a Noise, and thereby admonish him of his Drowsiness. But *Julian* had no need of any such Monitor, waking as often as he pleased himself, and was wont to rise at Midnight; not out of any soft or sumptuous Bed, but his mean and ordinary Couch, secretly to make his Prayers to *Mercury*, whom he imagined to be, according to his, and our Historian's Divinity, the more quick and vigorous Sense of the World, and was wont to excite the Motions of the minds of men. This in so great Defects of things, he endeavoured to search out and discover; which Disquisition, both difficult and serious (you must know) being finished, he then applied himself to the whetting of his Wit. And incredible it is with what and how great Ardour, making Inquiry after the high Knowledge of the greatest things, and seeking out, as it were, Food for his Mind, still climbing up to higher Matters in his Disputations, he ran through all the parts of Philosophy.

Ammianus the Historian his extraordinary commendations of him.

36. These Matters (for we shall still follow *Ammianus*) he effectually and fully furnished himself with, and yet did not despise those of lower Concernment. For he was reasonably well skill'd in Rhetorick and Poetry, as his handson, though grave Orations and Epistles manifested; to which was added a manifold Knowledge of *Roman* History, as well as that of other Nations, and a sufficient Readiness in the *Latin* Tongue. If that therefore be true, which several Writers relate (thus he proceedeth) of King *Cyrus*, of *Simonides* the Lyric Poet, of *Hippias* the *Elean*, (the most Acute of all *Sophists*) their having so great Memories by Virtue of some small Quantities of Potions and Receipts which they used; it is to be believed, that he now Adult, drank off the whole Barrel of Memory, if any where it could be found. And these are the Evidences by Night of his Modesty and Vertues. As *Memorie* Ditt for his handson and Facetious Speeches, and how he behaved himself, either before or in his Advancement, or in Battles, or with what Magnanimity and Freedom he reformed Matters in the State; they shall all (he tells us) in their proper Places be demonstrated. When he, being a Philosopher, was, as a Prince, constrained to exercise and train his Souldiers, he would often make mention of *Plato*; and add, that this was a Pack, or Fardel, fit for an Oxe to bear, and not a Burthen for his Souldiers. The *Agentes in Rebus*, being brought into the *Consistory* to receive their Gold, one of them amongst the rest, did not as they were wont, receive it in his Coat, but took it away in both his hands, at the sight of which he used this Expression; The *Agentes in Rebus* are skillful in taking, not in receiving, alluding to that rapacious Humour of these Officers, which heretofore we have observed. Having condemned a man to Banishment, who had ravished some Virgins; when he heard it was taken ill, that he had not put him to Death, he said; hitherto the Laws may blame Clemency; but it becomes a Prince of a most mild Disposition, to exceed the Laws. As he was on his March, he referred the Complaints of Petitioners

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Crudentum est bene etiam tam aditum totum Memorie Ditt for his handson and Facetious Speeches, and how he behaved himself, either before or in his Advancement, or in Battles, or with what Magnanimity and Freedom he reformed Matters in the State; they shall all (he tells us) in their proper Places be demonstrated.

Regit, non 20. Agentes in Rebus.

His objections
refuted by
Euthyphro.

38. But fo *Julian* Evaded the malicious Accusations of his Adversary; but others found far greater difficulty to get off. For if any Person consulted any such as were accounted skilful (in such profound Myteries) about the Squeeking of a Rat,

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Caput ibi non
cipiendum est
Capitis per-
Tributo,
Censu, sed
Jugo vel
fessione 3, un-
Capitatio &
ugatio adeo
quentes in
L. ut mirum
Valefiam hic
tibus grauer
asse,
de Plebeis
non multa di-
st, quasi
imperes pro se,
coribus,
beris Adultis
ngulis scil.)
reos viginti
inque solvere
tuerint. Vidg
hac re Com-
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15.
Annona &
ibitibus Cod.
lib. II.
f. I.

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Some saved by
the Constancy
and Courage of
the Judges.

Constantinus
prohibits the
Melting and
Selling of Gold

Rat, or the Sight a Weefel, or any fuch like Sign of ill Luck, or took an
 enchantment from any old Woman to prevent fo impending a Miſchief, (which faith
 our Author the Authority of Phyſick doth admit) he was beyond Expectation,
 Apprehended, Sentenced, and Capittally puniſhed. There was one
Dennis, betwixt whom and his Wife a Quarrel hapning, the accused him of
 ſome flight Matters, to which *Rufinus*, the Principal of the Apparitors be-
 longing to the *Præſeſus Pretorio* of *Africk*, and who lived in Adultery with
 the Woman, perſwaded her to add; that he was guilty of Treafon, and name-
 ly had ſtolen the Purple Covering from off the Sepulchre of *Diocleſian*, and
 ſome few knowing of it, kept it hid for ſome dangerous Deſign. This Fellow
 himſelf came to Court, and framed a Story, which would have brought many
 certain Deſtruction, if it had not found Honelt and Reſolute Judges. The matter
 was committed to be examined and heard, to *Maorvinius*, then *Præſeſus Pre-
 torio*, a man of the greateſt Conſtancy imaginable; with whom was joyned *Urfulus*
 the Comes *Largitionum*, a Perſon of commendable Severity. The Crime was ag-
 gravated, as ſuited with the Humour of the Times, but by Torture of many
 Perſons nothing could be diſcovered, and the Judges were very doubtful
 what to determine; when the mans Wife, urged by her Conſcience, and the Ne-
 ceſſity wherein her Husband and others were involved, confeſſed *Rufinus* to be
 the Contriver of the whole Device, and concealed not how Familiar they had been
 together. After Mature Deliberation had hereupon, they were both Sentenced,
 and put to Death. At which *Conſtantius* was very angry, and in a menacing man-
 ner ſent Command to *Urfulus* to come up to Court; as having executed him, who
 had been the Preſerver of his Perſon. He was adviſed, not to commit himſelf to
 ſo great Hazard; but up he came with great Courage and Reſolutions, and being
 call'd into the *Conſistory*, with open Heart and Mouth, both declared all that had
 paſſed, and therewith ſo daunted his Adverſaries that they held their Peace; and
 ſo he freed both himſelf and the *Præſeſus* from a manifeſt and imminent Danger.
 Others there were, who were not ſo happy as to evade the ſnares laid for them,
 but miscarried, through the great Jealouſie of *Conſtantius*, which his Miniſters fo-
 mented out of a greedy Deſire of Wealth, therewith all ſorts of men at this time
 were wonderfully inflamed, without any Diſtinction of Right or Wrong, Juſtice,
 or Injuſtice. Amongſt thoſe of the ordinary Magiſtrates there was *Rufinus*, the fiſt
Præſeſus Pretorio; of Military men *Arbio* the *Magiſter Equitum*, and *Eufebius*, the
Præpoſitus Cubiculi, beſides the *Queſtor*; and in the City, the *Antii*, of whom the
 Poſterity imitating their Grandfathers could never be contented with an Eſtate far
 greater.

39. But we hear too much of *Conſtantius* his jealous and credulous Humour, and
 the bad Effects thereof; let us divert our thoughts by a view of what elſe he acted
 this year, in Reference to Civil Matters; for as to War, he himſelf in Perſon was
 not now Engaged. Lying ill at *Milanz*, in the beginning of the year, he took
 Notice of a great Abufe committed in the Coin, by melting it down, and ſelling
 of it, as other Merchandize; through which Practices ſo great Detriment came to
 the Publick, that by an Edit he forbids them both, upon Pain of Death; and
 that for this Reaſon, becauſe the End and Deſign of Money is to be the Price
 of Things, and not like Wares to be bought and ſold. For Prevention hereof, he
 not only inflids Capital Punishment upon the Offenders, but provides againſt the
 Crime ſeveral other ways preſcribed in the ſame Law. He appoints Searchers in
 the Ports, Havens and Highways, for Diſcovery of ſuch Money to be Transported
 by any Merchant, Traveller, or Navigator. In the next Place he limits Mer-
 chants to a Sum, which they ought not to exceed in their Voyages; viz. a thou-
 ſand *Follis*, which is not to be underſtood of the leſſer ſort of *Follis* already ſpo-
 ken of, but the greater, whereof in the Age of *Conſtantine*, an hundred were of the
 value of a *Solidus*; ſo that for their Expence in their Journeys, he will not allow
 them above ten *Solidi*. A third way he preſcribes, that the very Merchants Ships
 of Burthen, at their Return, be ſearched, and that thoſe concerned produce all
 their Coin, for Diſcovery of any ſuch prohibited Money. To theſe he adds, that
 if any Money forbidden or not current, be found with any Merchant, both it, and
 his whole Eſtate beſides ſhall be confiscated; charging all, that no Merchants, either
 buy or ſell Money like as other Commodities or Merchandize.

40. About the ſame time he ſent a (a) Conſtitution, or (as the Word is in the *Latin*
 of thoſe Times) an Oration to the *Senate*, divided in the *Code* into three ſeveral Laws,
 concerning *Pretors*, the Nomination of them, and other Matters relating to theſe
 Officers. It had been a Cuſtom for the Judges in *Rome* to aſſume to themſelves the

A. D.
356

L. 1. *Siquis pecuniaris confu-
sarius* C. Cod.
Th. lib. 9 tit.
22. Art. 8.
Id. *Maer. Con-
stantinop. Con-
stantio* Aug. 8.
C. *Juliano* C.
Jure Cof. A. D.
356. *Abit* *hac*
Lex a Cod. Ju-
liana.

(2) L. 18, 9. 10.
de Pratoribus
Dat. 3. Id. A.
pril. Mtd. No-
minatio diffin-
guenda est à di-
signatione. No-
minatio erat,
cum ad certum
Præture genus
quis antea de-
signatus Prætor
nominabatur.
Vide Gotthof.
Comment.

Se^ct. 4.
Regulates the
Election of
Pretors.

mination of some sorts of *Pretors*, and this was also sometimes practised by the *Consules*. But in the first place, *Constantius* Abrogates all such Customs, and will have these Nominations only made by the *Senate*. And, whereas, before the time of *Augustus*, at the making of a *Senatusconsultum*, no smaller number of *Senators* was to be present than Forty, and this being lessened by that Prince, was afterward various, either according to the Humour of the Times, or the Weight of the Matter therein Determined; in this Business of the Nomination of *Pretors*, he will have no fewer present than Fifty. In the third place (by the third Law) he Appoints the Time for this Nomination to be on his own Birth-day, or on the *Ides* (the thirteenth) of *August*, and the days following, if that alone be not sufficient; it being a Custom for the Birth-days of Princes to be Assigned to the beginning of other Offices also. Next after this, he Declares, he will have none to Purchase of the Senate by Money or Reward, Immunity from the Service and Charge of the *Pretorship*, but only such obtain that Privilege, whose Merits shall deserve that they be taken into the number of *Adlecti* by the Emperour himself; by which *Adlecti*, we have already observ'd, that those are to be meant, who, having never discharged an Office, were, by the Favour of the Prince, or his Letters, Admitted into the Dignity and Honour of that Employment. He Declares also, that such as by their Merits had deserved to be *Præfidi Pretorio*, or of other Dignity, shall enjoy this Immunity. And lastly, he Ordains, that none shall Discharge the Office of *Pretor* by a Substitute, viz. his Son, Grand-son, or any other, but in his own Person; this being the reason, as *Gothofred* concludes, because this Son, or Grand-son, if he lived, being a Senator, was to be *Pretor* himself; and so having Discharged the Office both for himself, his Father, and Grand-father, his Patrimony might be too much Exhausted. We shall only further observe, that this Oration is said to be read in the Senate by *Præxius* the *Proconsul*, on the Ninth day, or Seventh of the *Ides of May*, whereas by the Rule of *Augustus*, the Senate could only be held on the *Calends*, and the *Ides* themselves.

41. The Year following, into which fell the one and twentieth of his Reign, and the CCCLVII of our Lord, according to vulgar Computation, he himself the Ninth, and *Julian Cæsar* the second time bearing the Title of *Consul*; he continued still at *Milan*, till about the end of *April*. And at this time however his Jealousie might prevail with him against the Lives and Fortunes of Innocent Persons; yet he published some Edicts, which made well for the Ease of his Subjects. It was a thing sometimes practised by the Magistrates of this Age, in certain Cases, to lay extraordinary Taxes or Impositions upon the People Subject to their Jurisdictions; and namely, they that carried the Title of *Speſtabilis*, as the *Proconsuls* and *Vicars*; but they especially, who in these Days took too much upon them in other Matters, as that of Appeals. This bringing, both great Damage and Inconvenience to the *Provincials*, and thence as great Scandal to the Government; by two several Laws he obviates the Practice; whereof the first is directed to the People to give them therein Satisfaction, and the other to *Taurus*, the *Præfectus Pretorio* of *Italy*, to whom belonged, as the Care and Oversight of *Tributes*, to inspect upon the Governours of Provinces, and also the Levying of extraordinary Taxes or Impositions. By these Laws he prohibits any ordinary Judge or Magistrate of the Dignity of *Speſtabilis*, or *Clarissimus*, to lay any extraordinary Charge upon the Subject, under Pain of paying himself the Double of the Sum, and his *Officium*, or Officers, twice as much as the Double, or fourfold. But thinking it not reasonable to force the same Inhibition upon the *Præfidi Pretorio*, he makes a Distinction betwixt sudden and urgent Necessities, and such as were not at hand, but might be foreseen, and at Distance. In the latter Case, when there was Leisure enough, the *Præfidi* ought to impose nothing, but at the time to certify the Prince, that according to the Custom, such Tax was to be imposed; that he might Consider of his own Occasions, and Rate the Provinces accordingly. But when there was urgent and inexcusable Necessity, so as the publick Safety would not dispense with Delay, then might the *Præfidi Pretorio* impose an extraordinary Tax; (not Extraordinary as to the Quantity of the Sum is to be meant, but in Opposition to the ordinary or Common Tributes) and this done, he was therewith to acquaint the Emperour, that by his Authority the thing might be confirmed, or receive Alteration before the Gathering of it. Other succeeding Princes, as we may see hereafter, denied this Power to the *Præfidi*; the ordinary, and extraordinary Indiction of Tributes, both alike, belonging to the Sovereign Authority. But

Lessens the
Power of the
Governours in
raising Money.

A. D. 357.
Constantio
A. 9. & Ju-
liano Cæsare
Cof.

L. 7. & 8. de
Extraordinari-
is & Cof. Th.
Lib. 11. Tit. 16.
Dat. 4. Nov.
April. & Dat.
Kali. April.
Constantio A. 9.
& Juliano Cæ-
sare 2 Cof.
A. D. 357.

Se^ct. 4.

But here *Constantius* Grants it with two Restrictions. The one in case only of Insupportable Necessity, which admits of no Delay; and the other, so as it be Approved and Confirmed by the Prince, who before the full Exaction or Collection might be Certified of the Occasion, and both of that, and the Sum Imposed, send his Approbation, or Dislike.

Publishes an
Edict for regu-
lating the Car-
sus Publicus.

42. Some fifteen dayes after, he Published another Edict to the same *Taurus*, concerning the Management of the *Cursus Publicus*, Determining of what sort of Men the *Curiis*, or those that had the Charge of it, should be Chosen; how many in number, and what their Duty should be. Hitherto out of the *Officium*, or Attendance of the *Præfidi Pretorio*, and oftentimes from amongst those of their *Vicars* Persons were wont often to be Deputed to this Charge, nay, from amongst the *Memoriales*, and other *Palatines*. But by this Law he Forbids this to be Practised for the time to come; Commanding that the *Agentes in Rebus* alone be appointed to this Employment. Their number he will have to be two in every Province, which he thinks sufficient for the Publick Charge of the *Cursus*. As to the Duty of the *Curiis*; he first Requires, that they take Care, lest any make Use of it but such as have Licence so to do, obtained from the Prince himself, or from other Magistrates who had Power to Grant it, as the *Magister Officiorum*. As also, that none exceed the Liberty Granted to them; as if they have only Permission to make Use of one Chariot or Carriage, that they not two, or instead of a Lesser, a greater Waggon. Here, as to the usual Carriages, mention is made of these four several sorts, viz. of *Rhedæ*, *Biretum*, *Vedus*, and *Clabula*. That called *Rhedæ* was drawn by no fewer than Eight or Ten Mules; the *Biretum* with three: *Vedus* was a single Horse, and the *Clabula* was drawn by four Oxen. He further requires, that such as pretend Licence from the Prince, do produce it, and make it appear to these *Curiis*, of what Condition or Degree soever they are; whether *Triunnes*, *Notaries*, or such as bear the Title of *Comites*.

The Persians
infest the Ea-
stern Provin-
ces.

43. In the mean time, the *Persians* Infested the *Eastern* Provinces; not Fighting, as they were wont, but like Thieves and Robbers, snatching away what they could get; in which course of Hostility they sometimes Fared well, and other whiles came by the Worst, and short home. *Mufonians*, the *Præfidi Pretorio* of the *East*, being a Man of Good Parts, but, as the Humour of the Times was, Mercenary, and easie to be drawn aside by Money, by certain Cunning Emisaries he employed, discovered their Designs, having taken in to his Assistance *Cassianus*, the *Dux of Mesopotamia*; one who was Hardy enough, as an old Souldier. Although by their Spies they knew sufficiently that *Sapor* the King was Employed in a Bloody War against some Neighbouring Nations; yet did they solicit *Tam Sapor*, one who Commanded the Forces which lay nearest to the Empire, to perswade his Prince by Letter to make Peace with the Emperour, that being thereby rendered Secure on this side, he might with the more Ease and Security Grapple with his other Enemies. This he undertook, and signified to his Master, that *Constantius*, being Involved in most Difficult Wars, earnestly beg'd Peace; but in the passage of the Messengers to the Countries of the *Chionites* and *Alani*, where the *Persians* Wintred, much time was spent. While Matters went thus in the *East*, *Constantius* lying still at *Milan*, and having little to do, resolved to take a Journey to *Rome*; there, as our Author Censures him, without any good Pretence, to Triumph over the *Roman* Subjects whom he had kill'd; the first that did thus after the Destruction of *Magnentius*: as if he had now shut the Temple of *Janus*, although neither he in Person had Conquer'd any Nation, nor by the Valour of his Captains had Subdued any, nor added New Provinces to the Empire. So far was he from this, that he was never seen in the greatest Dangers, nor to go on with the Forwardest; but loving to make a great Show, that the People, who little cared for it, or at all desired it, might behold his Banners Glistering with Gold, and his Guards with Silver. He was pleased to be seen abroad, not knowing, perhaps, that some Princes of old would in times of Peace be content with a few *Lictors*; but when the Case required it, venture their Lives with all Alacrity, and refuse no Dangers. That they might leave the Memory of their glorious Actions behind them. By the Greatness and Splendour of his Train, as well as the great Dignity which he enjoyed, he drew the Eyes of all Men upon him, and, as with a Complete Army, pursued his Journey towards the City.

Constantius ha-
ving nothing
to do, makes a
Journey to
Rome.

A. D.
357.

L. 2. de Curiis
& Cof. Th.
Lib. 6. Tit. 29.
Dat. 15. Cal.
A. 9. & Juliano
Cæsare 2 Cof.
A. D. 357.

Sect. 4.

The manner
of his Entry.He greatly ad-
mires the City.But what is it
chiefly.

44. When he came nigh to it, he was met by the *Senate*, and all the People, and so great was the Confluence, that he thought all the World was met at *Rome*. In his Golden Chariot he made his Entry, shining like the Sun, through the Quantity and Lustre of its Gems. The Dragons Embroidered upon Purple, fluttered in the Air about him from the ends of their Staves, which Glittered with Pearl and precious Stones; and while they were tossed in the Wind, by their Length and Wavings, they seemed to imitate the True and Living ones, in Hisling, and in the Tortuosity of their Tails. He was Encompassed with double Ranks of Armed men, who wore Targets and Helmets, as also Corslets bright and shining; and amongst them rode here and there the *Catapraiti*, (whom the *Perfians* call *Clibanarii*) so Fenced about their Bodies and Limbs with Iron, that one would have imagined them to have been Images, polished by the Skillful hand of *Praxiteles*, and not Men; their mour being so wrought with Joyns, that what Part soever they moved, it gave way. The Emperor now being Saluted on every side with lucky Acclamations, and the Noise, both of Voices and Instruments, fate as it were Astonished, and kept himself as Immoveable, as he was wont to do in the Provinces. For as he entered the High Gates, he stooped with his very low Body; but kept his Eyes still fixed before him, and as if they were fast in his Head; looking neither on the one side nor the other, neither when the Chariot flaked, at all moving; not so much as Spitting, wiping his Face, or blowing his Nose, or in the least seen to stir an Hand: which posture of an Image, though he did affect, yet (saith our Historian) this, and some other passages of his Life, were signs of no small Patience; and as one would have thought, to him alone granted. But again, he seemed as rigidly Supercilious, on the other side, that during his whole Reign, he never took any man up to him in his Chariot, nor used other marks of Civility wont to be bestowed, upon Discretion, by other Princes. When he was come to the *Rosira*, he was amazed at the Sight of the *Forum* (that Demonstration of the ancient Power of the Inhabitants) and when looking on every side, he could behold nothing but Miracles, he spake to the Nobility in the *Curia*, or *Senate-House*, and made a Speech to the People from the Tribunal. He was wonderfully delighted with the Place, and was thereby moved to so good Humour, that when the *Equestrian* Games were celebrated, he was well pleased with the usual Tattling of the Multitude, which carried it self towards him, neither fawcily, nor yet abating any thing of it's wonted Liberty at such Solemnities; and he accordingly kept his Mean, neither bearing himself haughtily, nor defending from his grave Department. In the view of the City these Rarities he most admired: the Temple of *Jupiter Tarpeius*, excelling, if you believe *Ammianus*, as much other Buildings, as Divine things are wont to surpass those that are but humane; the *Baths* built in manner of Provinces, he means as large. The *Amphitheatre*, to the Top whereof the Sight of man could hardly reach. The *Pantleon*, famous for it's Arches and Pillars, having the Trophies and Statues of *Confuls*, and ancient Emperours on the Top; the Temple of the City, the *Forum of Peace*, the Theatre of *Pompey*, the *Odeum* or Place of Musick, the *Stadium* or Course, and other Ornaments of this *Eternal City*; the ordinary Epithet our Author gives it, as do the Emperours in their Laws.

45. But when he came to the *Forum of Trajan* (that Structure of all Structures, under Heaven, as we suppose (saith he) and by Assent of the Divine Powers, Wonderful) and considered the Gigantick Workmanship, neither by words to be set forth, nor to be imitated by Mortals, he stood astonished. But some Emulation the fight thereof wrought in him, though he Despaired of doing what might equal any thing in it, except the Statue of *Trajan* on Horseback, which, he said, he both could and would Imitate. To which *Hornisida*, one of the Blood Royal of *Perfians*, standing by, Replied, that he first should do well to Build such a Stable, and then bring a like Horse into it; who being also Demanded what he thought of *Rome*, made Answer, That he was only Pleased (Displeased *Sigontus* reads it) in this one thing, that Men died there as well as in other Places. The Emperor Amazed with what he Daily saw, Complained of Fame, for her either Weakness, or Malignity, that usually Enhancing the Repute of other things, was Deficient in what concerned *Rome*; and Deliberating much what to do, he resolved to add to the Ornaments of the City, and to Erect an Obelisk in the Great *Cirque*. In the mean time, *Eusebia* the Empress practised too much her skill upon *Helena*, the Sister of her Husband, and Wife of *Julians*; which Lady, having in shew of kindness brought along with them to *Rome*, the perfwaded her to take something which made her Misferry; for, being Barren her self, she could not endure that She should be a Mother; and therefore, when the had formerly in *Gall* been brought to bed of a Boy,

A. D.

357.

Archie Tempion
primus condidit
Hadrianus ad-
no M. C. 974.

Gesta Gentili,
vultu Gentili
li. ut Valerius
ligures navetis

Sect. 4.

He is called
away by the
Invasions of
the Northern
Nations.

Some Laws he
made at Rome.

He comes to
Milan.

Where he
restrains the
Extravagances
of the Agents
in Justice.

And further
provides for
the *Curios* Pub-
lics.

the Bribed the Midwife to Destroy him, by cutting off too much of his Navel: so great endeavour was used to prevent that most Valiant man his having any Issue, faith our Writer. As for *Constantius*, he had a great desire to stay still at *Rome*; but was called away by frequent Mellages; that the *Suevi* had invaded *Rhetia*; the *Quadi*, *Valeria*; and the *Sarmatae*, a People skilful in pilfing above others, had made their Incursions into the Upper *Moesia*, and *Pannonia* the Second. He therefore Departed the City, the Twenty ninth of *May*, the Thirtieth day after his coming thither. *Sigontus*, *Barontius*, and others, place this his Journey to *Rome* *Vide Chronic.* in the preceding year, viz. the CCLXVI of our Lord, and the Twentieth of his Reign, but that it happened in this following, we are induced to believe, from the Dates and Subscriptions of some Laws, which Declare him to have been at *Rome* this year, and at this very time of the year; whereas in Laws of the preceding, of *Rome* there is no mention. There were certain Accountants, or Clerks, be-
longing to the Armies, though no Souldiers, yet under Command of the *Magistri Militum*; their work being to keep Books of what Provisions were due, and paid to every Company, and of every man that served in them. These men, to prevent the Auditing of their Accounts, in which they were often found Careless or Dishonest, were wont to procure themselves to be raised to Places of Dignity, of which *Constantine* the Great taking notice, had prohibited that practice; yet notwithstanding was it grown again to such a Grievance, that by an Edict Directed to *Taurus*, the *Præfatus Prætorio*, *Constantius* Reinforces what was Or-
dained by his Father, and Orders him to write to the *Magistri Militum*, that the Law be put in effectual Execution. This Edict bears Date from *Rome*, on the sixth of *May*, in the Ninth Consulship of *Constantius*, and the Second of *Julian*. There is another Edict, Dated also at the same Place, and directed to *Olybrius*, (rather *Orpilius* should be read) the *Præfatus* of this City, in Favour to which the Edict is made, Prohibiting any Persons to Injure or Molest the *Navicularii*, who brought thither Provisions, either in their Coming or Return, under pain of Forfeiting Ten Pounds of Gold. Indeed the Date of this Law is on the first of *June*, whereas *Ammianus* writes, that *Constantius* departed three days sooner; but a Mistake of three days is easie; or instead of *Dated*, is rather to be read *Received*; they being both usually fet to the Constitutions of Princes.

46. *Constantius* departing from *Rome*, came to *Milan*, and there made his stay till toward the middle of *December*. Here he received Complaints, how the *Agentes in Rebus* abused the Favour he had shewed largely to them; by which Encouraged, and presuming, they Committed many outrageous Acts, both of Violence, Rapine, and Adultery. For they were under the Disposition, as the *Notitia* of the Empire sets them, of the *Magister Officiorum*, and from his Office, or Attendance, were sent abroad into the Provinces, as occasion served. Now *Constantine*, forced to it by the many Complaints of the People, by an Edict bearing Date of the Twenty fourth of *September* to *Taurus*, the *Præfatus Prætorio* (or at that time *Received*) takes away all benefit they had from such Relation or Dependence, and Subjects them and all other *Palatine* Officers whatsoever, in case of any Crime committed, to the Jurisdiction of the Ordinary Judges of the Provinces; in like manner, as by another Law he Emends, That the *Curios*, whom he Ordered, as we have seen, to be Chosen out of their Body, be Judged by the *Præfatus Prætorio*. In case of Violation of Chastity, he Commands, that they be punished according to the usual manner. But in case of Rapine, or taking away any man's Goods, that they be Restored Double; as he also the same year, by another Edict, threatens the *Curios*, with payment of Four-fold the Value of what they unjustly took away. We lately mention'd how, in a Law made concerning these *Curios*, he took care of the *Curios Publicos*, or Postage. But besides that, by two other Edicts made this very year, and Directed to the same *Taurus*, the *Præfatus Prætorio* of *Italy*, did he further provide for the due Management of that Publick Service; which, as thence appears, was of extraordinary Concernment at this time, and scarcely sufficed to serve Publick Ends: of which this might be one reason, that there were many *Synods* to which Bishops posted up and down in those days, (touch'd at by *Ammianus*) and they had the Use thereof Granted them in their Travels; but besides the Express Charge, that none of what Quality soever (the *Præfatus Prætorio*, and the *Magister Officiorum* excepted) might make Use thereof, without having produced a Licence (if they did, their Names were to be Certified, if thence to the *Præfatus* or the *Magistris*) several other ways he prescribes for prevention of Abuses. Left the Beasts should be over-wrought and spoiled, he fet-
tles what Weight the three sorts should carry: as the *Rhedæ*, not above one thou-

A. D.

357.

l. 5. de Nominis

Curios.

Curios.

lib. 3. tit. 1.

Dat. Præf.

Dat. Præf.

lib. 2. tit. 1.

l. 9. de Naviculariis Cod.

l. 11. lib. 13.

l. 5. dat.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

Amianus.

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Amianus.

Amianus.

Amianus.

Amianus.

Sect. 4. land pound Weight; the *Bivotum*, not above two Hundred; and a single Horse, "or *Verecus*, no more than Thirty. He will have the *Rheda*, which had four wheels, in Summer to be drawn by eight, and in Winter by ten Mules; but thinks three sufficient for the *Bivotum*, which from its two wheels had its Name. Then doth he Restrain and Limit the Power of the *Præfatus Prætorio*, as to Granting Licenses, as not to give leave to any to make stay upon the Road, and have Allowances or Provisions, at the Mansions or publick Inns. Which Indulgence the Prince Reserves to himself. That he shall not Lightly Grant the Use of the *Rheda* and *Bivotum*; but as to the *Verecus*, he being a single Horse, was not of that Importance, and he must not Grant any Licenses at all to the *Agentes in Rebus*, when sent on a Message into the Provinces; because they were to receive them, either from the *Magister Officiorum*, or the Emperor himself.

How Matters
in the mean
time went in
Gall.

47. While the Emperour Employed himself in making of Laws, let us see how *Cæsar* behaved himself in *Gall*. He was much pleased that *Constantius* had sent *Severus* to Command under him in the room of *Marcellus*; a Man of a Facile and Compliant Humour, and of a very good Experience. *Barbatio*, who after the Death of *Sylvanus* was also Promoted to be *Magister Peditum*, was sent out of *Italy* with a Supply of Twenty five thousand men, by doubled Forces, if it were possible, to curb the *Almani*, and Force them up into their Bounds. Yet herewith were they not so Terrified, but that passing betwixt the two Camps, in their pilfing manner, they Roved as far as *Lugdunum*, or *Lions*, and little misted, but that they had Sacked and Burnt it; but being timely shut out, and Repulsed, they Walked the Country round about *Julian* having notice hereof, sent away three strong Parties of Horse to lye in wait for the *Barbarians* in three several places, by which he concluded they would return, and his Design wanted not good Success; for *Arminius*, whilst they were all cut off, and the Booty Recovered, except such as escaped, were sent *Barbatio* had his Post Assigned him. There *Bainobaudes* and *Valentinian* (who afterwards was Emperour) being with their Troops Commanded to keep the Guard, were forbidden by one *Cella*, the Tribune of the *Scutarii*, who Accompanied *Barbatio* in the Expedition, to watch and keep such Ways as they had learn'd the *Germani* were to return by. This, as *Cella* afterward confessed, was done by order of the *Magister Peditum*; but he being a Coward, and Envyng the Fame of *Julian*, to excuse himself, and make the other Suspected, told another Tale to *Constantius*; as if these two Tribunes, under pretence of Publick Service, came to withdraw from their Obedience the Souldiers he Commanded; upon which Accusation they were turn'd out of their Places, and sent home. However, this Defeat, and the noise of the Approach of the Armies so terrified the *Barbarians* that lived on this side the *Rhine*, that such ways as were difficult of themselves to pass, they endeavoured to make utterly impassable, by the cutting down of great Trees: others betook themselves into the Islands, with which that River is bespread, here and there, reviling and cursing *Cæsar* and the *Romans*. *Cæsar* demanded of *Barbatio* seven Boats with which he intended to make Bridges over into these Islands; but he, having Notice of his Design, burnt them all; so that being herein frustrated, he resolv'd to send over some Auxiliary *Vlites*, under Command of *Bainobaudes*, the Tribune of the *Comiti*, at a place, where he understood from Prisoners, the River was fordable. These men sometimes wading, and sometimes swimming by help of their Targets, got into the nearest Island, where they slaughtered, like so many Sheep, all those they met with, and there getting some small Boats, passed over to the other Isle; where having wearied themselves with killing, they returned laden with Booty, but lost part of it in the River. The other *Germani* finding in the Island but little Security, removed with all they had into places more remote.

48. After this *Julian* bent his Study to fortifie the *Three Taberne*, a Fort so called, which having been lately demolished by the Enemy, was now thought to be of such Consequence, as to hinder the Irruptions of the *Germani* into *Gall*; and he finish'd the Work sooner than could be hoped, and laid in Provision for an whole year, which with much Hazard he got out of the Enemies Country. Besides, he victualled his own Army for twenty Days: for of such Corn as had been of Course provided, *Barbatio*, as it came that way, took half, and burnt the rest; either of his own Head, as he was a vain and a sick-brain'd man, or by private Hints from the Emperour how to behave himself toward *Julian*, who, as was whisper'd up and down, was not sent on Purpose to Relieve the Province of *Gall*, but to be exposed to the Wars, that he might miscarry, being look'd upon as raw, and unexperienced, and one that would not endure so much as the clashing of Weapons together. But while he busied himself in building this Fort and other Works, the *Barbarians*

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Sect. 4. *barians* set upon *Barbatio*, and beating him as far as the *Rauraci*, took the greatest part of his Baggage, and return'd; which pass, as if this Summer's Expedition had been very well over, he sent his Men into their Winter-Quarters, and got to the Emperour's Court, there to do ill Offices to *Cæsar*, as he was ever wont, in *Arminius*'s Opinion. However, such ill Effect his Rout and Departure had, that several Kings of the *Almani* joyn'd their Forces together, and late down near to *Argentoratum*, verily thinking, that *Cæsar* himself had, out of fear, run away, whereas he was still busied about the Fort but now mentioned. Though they found it otherwise, yet being told by a Souldier that ran away to them to escape Punishment; that he had with him only thirteen thousand men, they had the Confidence to lend to him, and in a Menacing, Imperious manner to Command him to be gone, and quit the Country, which he had Invaded: with which Message he was not at all moved, but Laughing at the Infolence of the *Barbarians*, kept the Messengers with him, till he had finish'd the Work. Yet found he reason seriously to consider, that he was intangled in no small Difficulties, being Exposed with a small number of men, though very Valiant, against so Numerous an Enemy; who had some reason to be more Confident upon the departure of Vanquish'd *Barbatio*, and were Animated by *Chnodomarius*, one of their own Kings, much Elevated by his good Success; for he had formerly beaten *Decentius Cæsar*, the Brother of *Magnentius*, though Fighting on equal terms, had Wasted and Destroy'd many Places, and ranged up and down *Gall* without Controul.

49. Notwithstanding, *Julian* thought fit to Engage them now, lying at one and twenty miles distance, and this Resolution was approved by the Principal Officers, and amongst others, by *Florentius* the *Præfatus Prætorio*, then present. By a Speech fitted to the occasion, he Encouraged his Men, though they were by their own Inclination forward enough, so as they cried out to be led on to find out the Enemy. And the Enemy having notice of their March, stood ready to receive them in this manner. Having by the Fugitive Souldier understood, that the *Roman* Cavalry was placed in the Right Wing, they set opposite to them the best Horse they had, but with them some Foot mixed here and there, with very good reason. For they knew very well, that the *Chibanarii* being so Armed as they were, the Horsemen holding the Bridle in one hand, could, with the Lance in the other, do little Execution upon men that were Inclosed, and, as it were, hid in Armour, but the Footmen Creeping and Insinuating themselves here and there, according to occasion, could easily stab the Horses, who then tumbling down with their Burthens, the Riders kept under by the weight of their Arms, without much ado might be Dispatched. *Chnodomarius* and *Serapio*, more Famous than any other Kings, Commanded in Chief, being Assisted by five others, and ten more of the Royal Families, besides a great number of their Nobility, who altogether had brought into the Field thirty five thousand men of several Nations, whercof some were Hired, and others were Obliged to it by an Offensive and Defensive League. When the Battle came on, the Foot began to Mutiny, and cry out, that their Leaders should not fight on Horseback; for they apprehended, that they purposed, if Danger should threaten, to shift for themselves by the Swiftnes of their Steeds, and leave them as a Prey to the Swords of their Enemies; which *Chnodomarius* no sooner heard, but he leap'd from off his Horse, as did all the rest, not doubting but they should be Victorious. And they Fought very stoutly, some of them upon their Knees, Labouring to Gall and Discourage the *Romans*, who found their Matches in this Fight, now the one side, and then the other seeming to have the day.

50. The Right Wing of the *Roman* Army gave ground, and began to run in much Disorder, till one hindring another in the Flight, Shame to wrought upon them, as to make them stop their Career: but then again the *Cataphrasti* perceiving their Commander to be wounded, and another by the Weight of his Armour fallen from his Horse, thereat discouraged, turned their Backs, and shifted for themselves; which ill Example so moved the Foot, that they had run too, if one had not also hinder'd another. *Julian* seeing the Horse thus shamefully running away, by all the Rhetorick he had, laboured to stop them; and his Language so much prevailed with one of the Tribunes, who knew him by his Purple Banner, whercof was wrought a Dragon fixed to a longer Spear than ordinary, that he made an Alt, and endeavoured to persuade his Companions to Rally. In the mean time the *Almani* having Routed the Horse, were fallen with Violence upon the Foot; but found more Resistance, after they came to Handtocks, from the Valour and Experience of the *Comiti* and *Braccati*: yet was the Fury of the *Germani* so great,

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Rauraci, People
of the Town of
Rauraci, in
Gallia
Colonic.

The Barral of
Argentoratum,
or Strassburg.

Sect. 4. great, that it prevailed against the fedate Cautiousness of the Roman Legions so far, as that cutting themselves a Passage through their Ranks, they pierced as far as the Body of those called *Primani*, who being the choicest Legion of all, received them with still more Care and Circumspection; and taking Advantage at their Rashness, did to great Execution upon them, that the Pursuers at length, after a great Slaughter, despair'd of Success, and were themselves put to flight. The Roman confest the Success was more according to his Will and Desire, than Expectation; and giving the Chase, when his own Weapons were blunted with hacking and killing, leathred the Enemy's Sword in the Bowels of the owner. The *Germans*, not able to flee fast enough for the Heaps of dead Bodies lying in their Way, many of them ventured to take the *Rhine*, which was near to the Place of Fight, and therein were most of them, either drown'd or killed by the *Romans*, whom *Cæsar* (with much ado) restrained from entering the River, though the Rapacity thereof threatened them with present Destruction: *Chnodomarus* endeavouring to pass the Water, was known by the great Bulk of his Body (as all his Countrymen were ordinarily Large and Tall) and being pursued was forced to yield, together with his Followers, two hundred in number, and three of his most intimate Friends. Of the *Germans* were fix thousand found dead in the Field, besides vast numbers which perished in the River. Of the *Romans* fell but two hundred, and three and forty; and of these four Commanders, amongst whom was *Bainobaudes* Tribune of the *Cornuti*. The Army saluted their General with the Title of *Augustus*; but he flatly refused it, Swearing, that he neither expected, nor desired that Honour. *Chnodomarus* being brought before him and his Council, humbled himself upon the Ground, and beg'd Pardon, which was granted him; and being sent afterward to the Emperor's Court, he ordered him to be conveyed to *Rome*, where he died at length in the Place called *Castra Peregrina*, on *Mont Celius*. The News of the Success being brought to the Emperor; they about him ascribed it to his Felicity alone; and he was so much puffed up with their Flatteries, as in his publick Edicts to ascribe this and other Victories to his own Valour, as if he had fought at the Head of his Army. Infomuch, that when he was in *Italy*, if any of his Captains fought prosperously against the *Persians*, by his Laureat Letters sent into the Provinces, he would pretend to have engaged amongst the Chiefest, making no mention at all of him that had won the Battel. This prodigious Story *Ammianus* tells of him; though amongst his Laws now extant, we find no such Edicts; and *Aurelius Victor* attributes the Success of his Officers to his Councils.

51. *Julian*, after the Battel, Commanded all the Bodies to be buried; and then setting at Liberty the Ambassadors of the *Almains*, who had brought that Imperious Message, returned to the *Three Taberne*, the Fort he had lately repaired; whence sending the Prisoners, and all the Booty to the *Mediomatrici*, there to be kept, till his Return; he resolv'd to go to *Maguntiacum* (now *Mentz*) and by a Bridge to fall upon the *Germans* in their own Country. Surprized by so unexpected a thing, and to divert him, they sent beg'd a Peace; but then suddenly changing their Minds (upon what Grounds it's not easy to say) by other Messengers they threatened him with War, in Case he would not depart out of their Territories. *Cæsar*, to begin first, sent over a Party into their Country, which waited all with Fire and Sword, and resolv'd to repair a Fort, that *Trajan* formerly had called after his own Name; which so exceedingly discouraged them, that they sent and again beg'd Peace, and a Truce he granted them for ten Months, resolving in that time to finish those Fortifications that he had begun. But returning to his Winter-Quarters, he found other Work cut out for him. For six hundred *Franks*, encouraged by his Absence in *Germany*, and finding none to make any Resistance, had rifled all the Country about *Rheims*; and when they heard of the Return of the Army, seized on two Forts which had been dismantled, and therein fortified themselves as well as they could. *Julian* very much startled at the News, concluded that they were not to be suffered to escape without Chastisement, and laid Siege to one of the Castles, standing upon the *Mosa* (or *Mouze*) which held out three and fifty Days, almost all *December* and *January*; so pertinacious and obstinate were the Defenders. But resolving to starve them out, left by night they should escape over the River, that was then Frozen, and bring in Provisions; he caused the Ice to be broken, and Boats all the Day long to ply to and again, on Purpose to keep the Water open; with which, and other Courses, they were so discouraged, as to yield themselves; and were by him sent away to the Emperor. A multitude of their Countrymen were coming to their Relief; but understanding how they had fared, and were disposed of, returned to their own Homes. All Coasts being now clear, *Julian* went to

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Wherein *Julian* beats the *Germans*.

Julianus plus æque, Juliani gloria ludens
(*just Error in Treuen impressi*)
Julius dicitur
maximus dicitur
in Campo castris, videtur
qui vi Flaminii
Conspicitur
quod vi Vallis
in. Vallis
in L. Libanum
350000. tantum in Ex-
ercitum Germanorum offi dicitur in his 80000
missi occisi.

Ammianus Marcellinus lib. 17.

He hath the better of the *Franks*, who waited the *Pars* about *Rheims*.

He goes to *Levi*.

Sect. 4. to *Paris*, there to spend the remaining part of the Winter, and to Consult how to Improve the small time of the Truce, to the Ease and Refreshment of the Exhausted Provinces: and about this Matter hapned a Contest betwixt him and *Florentinus*, the *Præfatus Prætorio*. For the *Præfatus*, whose Duty it was to take care of the Tributes, finding so much behind of the Sum, would have it made up by greater Burthens laid upon those that were able to pay, after the manner we have already related, how in case the Grounds or Estates of some failed, the Sum was to be Completed by the Neighbourours. But *Julian* oppos'd it, saying, he would lose his Life before he would suffer such a thing to be done; knowing well, that this way of Provisions Ruined the Provinces, and particularly, had brought *Myricum* into a sad condition. The *Præfatus* exclaiming, and urging, that he must not betray his Trust to the Emperor, who had committed to his Management things of this nature; he endeavour'd to Pacify, by gentle words, and calling up the Accounts, shewed him, that the Tribute, as now Collected, would suffice, over and above, for the Publick Expence. Notwithstanding, afterwards, there was offered to him a Bill for an Additional Tax, which he would not so much as read, nor subscribe, but cast it to the Ground. And when the Emperor, by Letters, admonish'd him not to be so Nice, nor Detract from the Repute of his Ministry; he wrote back, that the Provincials paid what was sufficient, and more could not be got, where it was not to be had. His Constancy and Resolution herein so far prevail'd, that no greater Burthen than usual was laid upon *Gall*: and, which thing otherwise was not heard of; he prevail'd with the *Præfatus*, to leave the Management himself of the Revenue of *Belgica Secunda*, which was grievously harass'd; so that no Officer or Apparitor belonging either to *Præfatus* or *Præfatus*, should meddle with the Collection; which prov'd a very great Ease to the Inhabitants, who paid their shares rather sooner than they became due.

52. Having settled these and other Matters, as he thought convenient, he made all provision he could to prevent the *Almains*, and be upon them ere they could be united. He had not the Patience to stay for the Month of *July*, at what time the *Gallian* Armies were wont to take the Field; for being supplied with Corn out of *Aquitain*, they could not March till they had the Provisions with them, which coming, both so far, Reason and Diligence are wont to Conquer Difficulties, that he might come upon the *Barbarians* unexpected; he resolv'd to take with him twenty dayes Provision, and went his way; hoping, at this rate, to finish two Expeditions in the space of five or six Months. He first Attacked the *Franks*, called *Franci Salii*, who in former time had taken the boldness to plant themselves in *Toxandria* * (now *Brabant*) within the *Roman* Pale. Being come as far as *Tongres*, their Ambassadors met him, desiring that living Quietly, and Inoffensively, they might find suitable Usage from him; whom he sent back rewarded, with a doubtful and perplexed Answer, and, as if he intended to stay in the same Place till their return; but meaning nothing less, he was well before him, fell upon them like a Tempest, and by the Surprise forced them to give up themselves, and all they had into his Hands. After this, the *Chamavi*, who had Deserv'd just as much as they, he Treated not after the same manner, though he used the same circumstance of Halte and Surprise; for they made very stout Resistance, and some he killed, others he took alive, and cast them into Bonds, and the rest he suffered to escape; and when their Messengers, prostrate on the ground, begged Pardon, he granted it to them. Things thus far succeeding according to his wish; he thought fit to defer his further March till such time as he had Reinforced three *Ca-Palis* upon the *Mense*, that by the *Barbarians* had been then dismantled. This Effect with great Celerity, and having seventy dayes Provision still with him, he thought fit to supply those that he left therein, with part of it, in hope to make it up, with advantage, out of the Fields of the *Chamavi*; though it happened otherwise. For the Corn was not yet Ripe; and the Army, now wanting what had been left in the Castles, when the Country afforded no Recruit, began to Mutiny, and to Threaten their General; calling him in derision, *Albanus*, *Graculus*, *Chen*, and to Coxcomb under the Vizard of Wildom. They complain'd, that they had formerly endured the Snow and Frosts, and now were to be exposed to the Extremities of Famine, which caus'd the most Lazy kind of Death of all others. Silver, things in what they had Pledg'd for their Lives, neither for Gold nor Silver, things they had not the happiness, either to Handle or See; as if they had undertaken so many Labours and Dangers, not for, but against the Commonwealth. Neither wanted the Souldier just reason for these Complaints: for though the *Gallian* Army had undergone

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Provides for the Ease of the Provinces.

He subdues the *Franks*, and the *Chamavi*.

His Army wants Provisions, and Mutinies.

De dicta a Toxandria, five Toxandria, non in Belgica, sed in Flandria, lib. 4. c. 17. non longe à Scaldis sita, ibi in loco fides fuerat Salii, non enim a Treuonibus, sed a Scaldibus occupaverunt, ut refert Zosimus. lib. 2.

Secr. 4. dergone so much Toil, and was so much Exhausted, it had never receiv'd a *Donative**, nor so much as the ordinary Pay. For *Julian*, since his Arrival, had not therewith to do it, and *Constantius* would not permit the Money to be rais'd the usual way; which *Ammianus* interprets to have proceeded, rather from Design than Couetousness. For when a Common Souldier, on a time, asked *Julian* something, as the Custom was, to cut his Beard, and he gave him some Inconsiderable Matter, he was most Contumeliously traduced for so doing, by *Gaudentius*, then a Notary, who lay a long time in *Gall*, to pry into his Actions, and whom (to be even it seems with him) when he came to be Emperour, he Commanded to be put to Death.

He divers
them, by an
Invasion, into
Germany.

Two Kings
submit them-
selves.

He is envied
at Court.

53. But with various Arts, and much ado, he Appealed the Tumult; and to Divert them by Action, laid a Bridge of Boats over the *Rhine*, and Invaded the Territories of the *Almans*. In this Expedition, *Severus*, the *Magister Equitum*, having formerly had the Reputation of a Valiant and Industrious Man, now turned Coward; and he, who was wont to Exhort others to demean themselves Gallantly, now stood in need to be spurred on to Action. Yet were the *Almans* so Discouraged at the Invasion, that *Sumariis*, one of their Kings, who had formerly been ready enough to Fight against the *Romans*; thinking it a great Achievement, if he could but save himself, on his bended Knees, came and yielded his Person and all he had, to the Discretion of *Cesar*, who granted him Pardon, on this Condition, that he should Release his Prisoners, and upon occasion, supply such *Romans* as Marched that way, with Provisions. The Country of another petty King, *Hortarius* by Name, being by their Guides led through difficult and tedious Courses, out of Anger, they waited all he could do; and when he made what means he might to prevent the Destruction of himself and Dependents, by Fighting and Taking of Prisoners, being Worsted, he was not only enjoynd to set at Liberty all the Captives, but to find Materials and Carriages, for Rebuilding those Castles which his Countrymen had Destroyed. For, to Impose finding of Provisions upon him, as upon *Sumariis*, would have been in vain, his small Territory (*Pagus*, our Author, more properly call it) being so Exhausted, that nothing of that kind was to be found therein. And in this manner (saith *Ammianus*) those vastly Swelling Kings (and great reason they had to Swell, if we knew of what vast Extent their Kingdoms were) who were wont to grow Rich by the Robberies they committed against the *Romans* (as little Matter then would make them Rich as Great) were constrained to submit their Necks to the Roman yoke, and did it as quietly, as if they had been Born and Bred amongst Tributary Vassals. Which things being Attchieved, and the Souldiers dispersed into their Quarters, *Cesar* returned to his wonted Place to Winter; having done as great Matters, if the Reader will believe it, against these Kings of *Collein*, as was performed by the Antient Captains, even against the *Carthaginians*, or *Cimbrians*; so great is the force of Favour to one, and Prejudice to another, that Posterity must be defrauded of sincere Relations, even by those that most pretend to the Historical Virtue of Veracity.

54. But when the Report of these things came to Court (for *Cesar* was bound to give an Account to the Emperour of what passed, as much as any Ordinary Apparitor) those men that were Learned Professors in the Science of Flattery, turned all, that was both Prudently undertaken, and happily concluded, into Ridicule. They called him *Goat*, because of his long Beard; a *Prating Mole*, an *Ape clad in Purple*, the Greek *Schollard*, and other Terms they used fully as obliging, thereby endeavouring with impudent Language to transform all his Glorious Actions into Folly and Cowardise, before *Constantius*; to whom this Noise was very pleasing Musick. But this was no new thing. The greatest Glory is most exposed to Envy, which of old time, feigned Crimes, and fixed Disgrace upon the most Illustrious Captains. So *Cimon* the Son of *Miltiades* was accused of Incest; that *Cimon*, who near to *Eurymodon*, the River of *Pamphilia*, cut off an innumerable company of *Perfians*, and compelled that Nation, before Elevated through the Infelicity of their King, to ask Peace in an humble manner. *Scipio Emilianus* was also by his Malevolent Emulators, taxed with Sloth; even he, by whose constant Vigilancy, two Cities of the *Carthaginians*, obstinately bent for the Destruction of *Rome*, were themselves Destroyed. Neither did *Pompey* escape such Tongues; whose Detractors, after much Inquiry, not being able to find any thing Material against him, had the confidence to lay two Heavy Crimes to his Charge; whereof the one was, That he had a Custom to scratch his Head with one Finger; and the other, that he bound his Leg with a white Garter: the one, they said, was the sign of Idle Affectation, and the other, that he was greedy of Innovation, though he did it only to hide a Scar received by a Wound. But they Argued, with great Wit, that it matter'd not on what part of his Body he wore the Badge of Royalty (the Fillet or Diadem) laying the height

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Hec Julia

fuit, fivem qd

quod narrat

in Principi

bus lib. 1. de

vita B. Marti

ni. Juliam,

casto in unum

Exercitu, Do-

mestium capit

rogare Militi

bus apud Pan-

nonum Civi-tem,

ut apud con-

junctidit.

Singuli Citi-

batores, donec

ad Martium

vestem esp.

tum rem, quon-

iam diserte

nomine. Vide

Valefium.

Secr. 4. of Ambition to the Charge of him, than whom, as is evident from good Authority, none was, either more Courageous or Cautious for the Good of his Country. So *A. D.* 357.

55. But let us, leaving *Cesar* a while, see how *Constantius* all this while behaved himself at *Sirmium*; whether he went from *Rome*, as we said before, upon News, that the *Suevi*, *Quadi*, and *Sarmate* had Invaded the Empire; and whether he had no other Employment than to receive the satisfaction from his Flatterers, of hearing his Cousin *Julian* made Ridiculous. Being arrived in *Illyricum*, he sent *Severus* to succed *Marcellus*, and ordered *Ursicinus* to come to Court, who, gladly obeying him, hastened to *Sirmium*; where long Consultation being had concerning a Peace, which *Musonianus* had reported might easily be had from the *Perfians*, he was sent away into the East, with the Title of *Magister*, and took along with him the eldest of those called *Domestick Protectors*, to Command under him, and some of the younger sort to Execute other Orders, amongst whom was *Ammianus* the Historian himself; as from his very bad Latin we shall see. But to fetch the *Perfian* Matters whence we left them. That King having received Letters from *Tam Sapor*, importing, that the Emperour being intangled with other Difficulties, desired to be at Peace with him, as we formerly said, and having now made a League with the *Chionites* and *Alani*, his Troublesome and Warlike Neighbours on that side, he considered what to Answer. He concluded, that the Empire was in a Weak and Tottering Condition, and therefore Resolv'd to make Use of his time, to Accept of a Peace, but upon very extraordinary Conditions. He sent an Ambassador to *Constantius*, one *Narfesus*, with Presents, and a Letter stuffed, both after the Humour of the Man, and of those Eastern Princes, from the Time of *Asaces* (which still the *Turk* and others imitate) with swelling Titles and lofty words: as, I *Sapor*, King of Kings, Partner of the Stars, Brother of the Sun and Moon, with much Health to my Brother *Constantius Cesar*; for by this word *Cesar*, however at this time, whereof we write, the *Romans* by it denoted, in a proper and peculiar sense, the Second Person of the Empire, yet Foreign Nations usually to call the Emperour himself, and so do still at this day, except those, the Body of whose Language is *Latin* corrupt, or who have mixed and spoiled their own True and Antient Speech with it, as we have done. King nor *Cesar* is an usual saying, and the *Germans* call their Emperour by that Title. He tells him, he is glad that at length he begins to use Consideration, and to Acknowledge Equity and Justice, being sensible what great Mischiefs a greedy Coveting of what belongs to other Men, hath usually procured. He Appeals to the *Roman* Records, whether his Ancestors had not been Masters of all, as far as the River *Strymon*, and the Borders of *Macedonia*; and, so far as He himself (without Arrogance sure it was spoken) Excelled, by a large Series of Vertues, all Antient Kings, and had, from his Infancy, done nothing he found cause to Repent of; he could not but Require and Demand what had been Possessed by his Predecessors, and Affirm, that he ought to have Restored to him *Armenia* and *Mesopotamia*, of which his Grand-father had been cheated. In conclusion, he Advises him, as a Friend, to Quit some part of his Empire, which always was bringing him Trouble and Sorrow, that he might with Quiet and Ease Retain the rest: even as *Galileo* ingenious Chirurgeons are wont to cut off some corrupt Member, which endangers the whole Body; and as brute Beasts themselves, of their own Accord, part with that *A.D.* 297, *Mesopotamiam*, for which their Lives are purified. And in case he comply not with what he Demands, he professes he will, with all the Power he can, haste, by Force to obtain it, as soon as *Regisibus* the Season will permit.

56. *Constantius* thought fit to Answer this Braggadocio by Letters thus directed: I *Constantius*, always *Augustus*, a Conquerour both by Sea and Land, to King *Sapor*, my Brother, with much health. Then he tells him, he Congratulates his Prosperity, as a Friend, if so he please; but that he much condemns his Extravagant Ambition. As to what he strangely Mentions concerning *Armenia* and *Mesopotamia*, he bids him receive for Answer, that he perceived his *Presumptuous* Pratorio had, out of good Intentions, as he thought, by Interposition of some inconsiderable Persons, mentioned something about a Peace, without his Knowledge or Approbation; yet was he not against it, provided it might be such an one as would be Safe and Honourable; but neither the one or the other he was sure it would be, after having Defeated all Usurpers, and Recovered all the *Roman* World to his Obedience, to part with those Provinces in the East. He Advises him to forbear his Threats, or to think to scare him with words, who, more out of Moderation than want of Courage, had hitherto rather Defended himself, than otherwise, as he should do for the time to come; so far as he well knew, both by Reading and Experience, that the *Romans* were seldom worsted in Batrels; to be sure, as to the Main, were never wont to be Losers in War. Without any good Effect was the *Perfian* Ambassador sent back; and, after a few days, followed

Sect. 4.
By Messengers
of his own.

Prosper, a Comes, and *Speñatus*; a Tribune, and Notary, with one *Eustachius* (at the Suggestion of *Mysionianus*) a Philosopher, and ettemed an able Artist in Perfumage, carrying with them this Letter and Presents to *Sapor*, if possible, to preserve the Eastern Countries in Quiet. While they were on their Journey, the *Juthungi*, a German People, broke the League and Peace, which, by much Intreaty they themselves had procured; and waſting *Rhetia*, laid Siege to several Towns; but were so handled by *Barbatio*, lately promoted to be *Magister Peditum*, in Place of *Sylvanus*, that few of them escaped home; which hapned, as *Ammianus* will have us believe, not by any Care, or Valour of the General, who was a Coward in all things, except his Tongue, but through the Alacrity of the Souldier. At the same time most dreadful Earthquakes distressed *Macedonia*, *Asia* and *Pontus*, which not only overthrew many Towns, but level'd Mountains; and killed, and Maimed great Numbers of miserable People.

Constantius
Erects an Obelisk at Rome.

57. *Constantius* now, who by various Laws, and otherwise, took Care of the State of the City of *Rome*; to increase it's Ornaments, caused an Obelisk to be conveyed out of *Aegypt*, from *Thebes*, where had been plenty of them, and erected in the great Cirque. Wint'ring at *Sirminum*, he was perpetually vexed with fresh Alarms of the *Sarmatae* and *Quadi*; who were very much agreeing, both in their Customs and way of Fighting, infested both *Pannonia*'s and *Mesja*. Being accustomed rather to Robberies, than open War, they used Lances longer than those of the ordinary Sife; wore Corsets made of polished Horn, placed upon Linnen, as if it had been Feathers, and rode upon Geldings, as those that would be quiet, though with Mares, and as tame in all other Respects, as one would desire; withal so swift, and disciplined, that they would fetch off sometimes one, and sometimes two, or more Prisoners, if they had careful Riders. At the Vernal Equinoctial *Constantius* prepared to be in the Field; but, in the mean while, spent some time in Consideration of Civil Affairs, as well as for things relating to his Arms. One Misfortune he took Notice of in the Province of *Africa*, which redounded to the Burthen of the Subject. The Reader cannot but remember, how we have formerly told him, that there were Provisions for the Army, called *Species Annuariæ*, went to be gathered and laid up by the *Præfatus Prætorio*, or his *Vicar*, in the publick Storehouses. Now as by these great Officers, the Provisions were raised from the People, so without their Knowledge and Authority, they could not legally be taken thence; otherwise, the Publick Stores might be imbezelled, the Souldiers want when there might be urgent Occasion, and the People oppressed by new Exactions. But the *Comes Rei Militaris* throughout *Africa*, either not knowing his Duty, or presuming too much upon Impunity, had on his own Head, and without Consent of the *Vicar* of that Province, made Use of the Provisions there deposited. Of this, by an Edict, Dated this Winter from *Sirminum*, on the eighteenth of December, and directed to *Taurus*, *Præfatus Prætorio*, *Constantius* takes particular Notice, and forbids the Practice for the time to come; ordaining, That the *Comes* aforesaid should in such Cases write to the *Vicar*, what Quantity of Provisions, and for whom it was wanting; which done, and the *Vicar* thereof approving; so much should be taken out, and accordingly employed.

By Laws provided for the Authority of the greatest Magistrates.

58. By another Law made at this same Place, and as seems, in this same Month, directed as the former, to the same *Taurus*, he determines something considerable in behalf of his Jurisdiction, as *Præfatus Prætorio* of that District. He tells him, That he shall hear and determine Appeals made out of *Sardinia*, *Sicily*, *Campania*, *Calabria*, *Bruttii* and *Picenum*; as also *Æmilia*, *Venetia*, and the rest. Neither can any Confusion happen betwixt his Jurisdiction herein, and that of the *Præfatus* of the City, to whom he had given order, not to meddle with, or take Cognizance of the said Appeals. As to the Interpretation of this Law, great Dispute there hath been, whether now first of all, the Right of receiving Appeals was granted to the *Præfatus Prætorio*, which formerly had belonged to the *Præfatus* of the City, or only by it that Authority and Right, which before he had enjoyed, be settled and established in him. And rather we are to think, that this was given him *de novo*; which formerly did belong to the *Præfatus* of the City, an ancient Officer, and of great Authority in those Parts. But we must not conclude, that all Authority in these Provinces was taken away from him by this Law, which plainly Hints the contrary, in that it saith, No Confusion should happen, nor Interfering, betwixt their Jurisdictions. For other Acts of Authority he might there exercise; although the *Præfatus Prætorio* received Appeals. However this Law did not, as to all those Provinces, continue long in force; for that, from some of them, namely, *Campania*, it is evident, that the *Præfatus* of the City receiv'd Appeals; to whom also *Valentinian*

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L. 3. de Ergast.
Hæc Militaria
Ornamenta, Dat.
15 Kal. Jan.
Sirmio; Con-
stantius Aug. 30.
de Juliano
Cæsi. Cæsi.
A. D. 357.
de Jul. a Cæsi.
Justin.

L. 27. de Ap-
pellat. & Con-
sultation. Cæsi.
76. lib. 11.
tit. 30.
de Jul. a Cæsi.
Justin. volut
Historia &
Læcili.

Pide Gætho-
fridi Commem.

Sect. 4.

nian ordain'd, when many of the Provinces of *Africa* were fallen into the Hands of *Barbarians*, and the Power of former Magistrates ceased there; that Appeals should lye from all the Judges, of such Parts as continued in Obedience to the Empire. Whereas, besides the Provinces expressly mentioned, this Edict points at others by that Word, the *Rest*; by these are to be understood *Lucania*, *Apulia*, *Flaminia* and *Tuscia*. Neither are any of them to be thought to have been of the Number of the *Suburbicarian* Provinces, as some have thought, which were Included within an hundred Miles Compass from the City; and being the proper Diocese of the *Præfatus* thereof, are constantly, in the Code, both distinguished from these, and from *Italy*, taken in a peculiar Sense. But hence it's rationally conjectured, that the original of these *Urbicarian*, or *Suburbicarian* Regions, is to be fetched, as opposed to the Regions, or Provinces of *Italy*; whereof the first express Mention seems to have been made two years after; of which in it's Place.

59. Some few dayes passed, we find him Employed in making another Edict, which rather more than any other gains Credit to what *Ammianus Marcellinus* writes, of his great Propenseness to the Confiscation of Estates, and Punishing of Offenders; but especially of the Insatiable Avarice of his Begging Courtiers, which feldome is wanting in any Prince his Palace: but these Leeches more abounded in his time than any other, and exposed him to more *Odium* by those Courtiers they put him upon, than the double of what was got thereby amounted to. Two years before, being very moderately inclined, by an Edict directed to the People from *Milan*, he rather relaxed the Severity of former Laws, against the Children, or Posterity of such Criminals as were put to Death. For as to the Estates of such Persons, to whom they should fall, the Law was very various in this Point, according to the Discretion and Pleasure of Princes. Before the time of *Constantine*, the Estates of their Wives and emancipated Children were not at all distinguished from those of such procriber, or criminal Persons, but all were without any Distinction Confiscated; neither was there any Respect had to the Issue, but all forfeited by Force of the *Cornelian* Law. This that Good Emperour by a New Law did correct, as most cruel and unequal; but yet such Provision was not made for the Children in general, as *Constantine* his Son thought afterwards fit to make. Therefore did he ordain, That the Estates of Condemned Persons should fall to their Parents, or Children, as far as the third Degree; so as the Treasury should not at all intermeddle; but it should be free for any Person, with that Limitation, to enter upon them, to whom by the Civil or Prætorian Law they became due of Course, except in the Cases of High Treason and Magick; concerning which he leaves the Law in force, as it stood before. By Sentence whereof the Estates of such as committed these Offences were all confiscated, and at all times, except afterward, when a sixth part was allowed to their Children, by a Constitution of *Theodosius* the Great. As now by the common Consent of Princes, so by the especial Humour and Inclination of *Constantius*, that of Magick is joyned to the other Crime of Treason. For, of this he was continually in Fear, and hated it so much, that not only by several Laws he testified his Hatred; but as we have already in the History of that year observed from *Ammianus*; if upon the Squeaking of a Rat, the sight of a Weasel, or other Fooleries, any one consulted the Wizards of those Times; he was apprehended and Sentenced, as a dangerous Person; which Jealousie of his was fomented by such about him, as gaped after the Estates of Condemned Persons.

60. And they Gaped not in vain, for he was apt enough to stop their Mouths. But whereas such as had begg'd those Estates were wont to Conceal, as much as they could, the true Value of them; by another Law made the following year, he prescribed Rules for Prevention of such Craft; and that he might understand what he gave for the time to come, He would have an Inventory made thereof, and sent to him: for the ordinary Judge, who passed the Sentence of Forfeiture, was thereof to Certifie the *Officials* of the *Procurator* of the *Patrimony*; that was, in the Name of the Emperour, and for the Publick Use, might make a Record of all such Goods or Lands. He would not trust therewith the Officers of the Ordinary Judge; but those of the *Procurator* of the *Patrimony*; which course *Valentinian* afterward Altered; Resolving to Trust neither the one nor the other fort; but Ordained, That first those of the Ordinary Judge should make an Inventory, and then this Inventory should be Transmitted to the *Officials* of the *Rationalis*; *Res Privata*; to whom a Second Inquisition was then enjoyned, that so all frauds in making Inventories might be prevented, which ordinarily happened in favour of the Parties, whom most People are wont to pity. But by both these Courses

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L. 1. de Bonis
Procuratorum,
Cæsi. 76. lib. 9.
tit. 42.
L. 2. ejusdem.
tit.

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Dianio &
Cereale Cæsi.
L. 3. ejusdem.
Cæsi. 76. lib. 11.
tit. 30.
de Jul. a Cæsi.
Justin. volut
Historia &
Læcili.
Pide Gætho-
fridi Commem.

Sect. 4. Command is given, that a Copy be sent up to the Emperor. By this Second Law he took order, that he might know what he gave away; but by a Third, which gave occasion to this Discourse, he made way for a greater opportunity of giving, though we scarcely call it Charity, which to be sure must proceed from well-gotten Goods. For now, this time, whereof we write, wherein *Davianus* and *Cerealis* were Consuls, being the CCCLVIII of our Lord, and the two and twentieth of his Reign, by another Edict Directed to *Taurus*, of whom we have made often mention, he Repeals that Moderate and Favourable Law, made two years before, Commanding the Estates of all Persons Condemned, to be Confiscated, without any Account given why; but that the former Law he had made under a certain Condition, we know not what, except he mean, if his Pleasure stood to have it continue in Force, to which Condition, all other Constitutions are obnoxious; For, those that Make, may both Explain and Abrogate. But his Timorous Humour Betrayed him to the Crafty Insinuations and Flatteries of his Favourites; yet scarcely to any further degree of Severity than what was Legal before the dayes of his Father, and Emperours became *Cristian*, as we have seen.

He makes a severe Edict about the Estates of Criminals.

He overthrows the *Sarmate* and *Quadi*.

Divces of the Petty Princes and Captains Submit themselves, with their People.

61. But the *Vernal Equinoctial* being past, provoked by the Infolence of the *Sarmate* and *Quadi*, he set forward from *Sirmium* with a very good Army, and by a Bridge of Boats passed the River *Ister*, at this time much swollen by reason of a Thaw. The *Barbarians* expected nothing less, than that he should be so early with them; and being utterly unprepared to receive him, or make any Resistance, by shifting for themselves, as they could, they endeavour'd to shun those Mischiefs that impended; although such as escaped, as ordinarily it happens, might have prevented the Destruction of their Friends and Relations, and saved their Country from being overrun, if they had made Opposition, and fought with as much Resolution and Earnestness, as they ran away. But thus was that part of *Sarmatia* wasted, which lay nearest to *Pannonia Secunda*, and that Country called *Valeria*, fared no better. But the Inhabitants being moved with Shame and Indignation, to see so great Havock made of their Country; at last laid their Heads together, and the Result of their Debates was, that they would set upon the *Romans* in no less than three several Bodies, under Pretence of coming to beg Peace, hoping under that Disguise absolutely to surprize them. And for the better effecting of this Device, the *Quadi* assisted their Friends the *Sarmate*, but with so ill Success, that all were put to Flight, and miserably slaughter'd, if their Heels did not bend them. After this, it was thought by the Emperor and his Council, as just, as prudent, to invade the Territories of the *Quadi* themselves, and that with the Army reinforced; but they being taught from Experience abroad what they were to expect at Home, made timely Applications to *Constantius*, and beg'd Peace. Matters being agreed on, and a Day appointed for Performance of the Conditions; *Zizab*, one of Royal Blood amongst the *Sarmate*, a young man of no small Bulk, perfwaded his Countymen to enter into the same Courtes; and coming to the Emperor, upon sight of him, cast away his Arms, and fell prostrate with his Face upon the Ground, where he lay Speechless out of Fear, and moved more Compassion, than if he had used many Entreaties. After many Sighs, coming by Degrees to himself, and being bidden to rise, when he had got the Use of his Tongue, upon his Knees he beg'd Pardon for his Offences, and when raised up, gave the Sign to those that followed him, who with Fearful Looks also cast down their Arms, and with their Hands testified their Joyning with him; and by whatsoever Signs they could, they further expressed their Desires; so joyful were they at the Hope of Pardon, that to make some Satisfaction for their former Offence, they were content to deliver themselves, their Wives, Children and Territories into the Emperor's Hands. But his Pénigity, as *Ammianus* himself affirms, prevailed above Equity, and they were bid to be of good Cheer, and fill to hold their Lands. So, being only Commanded to restore those Prisoners they had taken, they returned back with them they purposed to have left as Hostages, promising for the time to come, most readily to submit to his Commands.

62. This Act of Clemency towards *Zizab*, and other *Subreguli* (as our Writer terms them) had such operation upon their Neighbours, that *Arbarian* and *Usser* speedily came in; two of the most notable Commanders of these Nations; whereof the one Governed the *Quadi* beyond the Mountains; and the other part of the *Sarmatians* next adjoining to them; such Multitudes they brought along with them that the Emperor thought fit, not to admit them all together to his Presence, lest under Pretence of making a League they should break Peace, fall on their Arms, and offer him Violence; but, parting them asunder, commanded that such as sup-

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L. 4. tijf. 21. A. Arrogata est lex, uti niam polia, a V. Iustiniano. Vide Comment.

Sect. 4. plicated in behalf of the *Quadi*, should first approach. They stood there with their bended Bodies, like to humble Supplicants, as their manner was; but were not able to make Excuse for the Outrages they had committed; but apprehensive of the worst thing that could befall them; when unexpectedly they were only commanded to deliver up their Hostages, which they freely did, having never done so much before. After *Arbarian* and his Company, was *Usser* and his Followers admitted to their Submission, at which *Arbarian* cried out, that he ought to have the Benefit of those Terms he had obtained, as his Associate; though an inferior, and one that was obnoxious to his Commands. But upon Debate of the Matter, it was thought fit to declare the *Sarmatians* exempt from Obedience to others, as such as had been always the Clients of the *Romans*, and they also were ordered to deliver up their Hostages, which they most readily performed. After this stocked vast numbers of the *Barbarous* People, and their Kings; perceiving how well *Arbarian* was come off, they also obtain'd the Pardon they beg'd, and gave up their Hostages, being chosen by Lot, out of the Sons of their choicest Nobility; and with them such Prisoners as they had taken, whom they parted as sorrowfully with, as their own Relations. But this hapned well for these *Sarmate*, and brought them into their antient State of Liberty. For, as we have formerly hinted, they had been outed of their Country by their own Slaves, for whom risen up in Rebellion, finding themselves too weak, they fled, and betook themselves to the *Vilobuli*, living at some Distance, and chusing rather to submit to them, as their Protectors, than become Vassals to their own Servants. Now, being received into Favour by the Emperor, they desired their Liberties might be secured, whom pitying, he gave them gentle Words, and ordered they should be Subject to the Commands of none but himself, and his Captains. And to gain him more Reputation, he promoted *Zizab* to be their King, a man, both worthy in himself, and faithful to the Empire; which done, he dismissed them all, but not till such time as all the Prisoners were returned.

Constantius receives into Protection the *Sarmate*, that had been Expelled by their own Slaves.

The Remainder of the *Quadi* submit.

63. From these Quarters the Army removed to *Bregetio*, there to finish the Controverfie with the Remainers of the *Quadi*, that lived in those Parts; the Princes and Magistrates of whom, seeing so great a Force in the Bowels of their own Territories, followed the Example of the rest, and begging Peace, delivered up their Hostages; then drawing out their Swords, which they worshipped for Deities, thereon they swore, that they would continue in Fidelity. There remained yet the *Sarmate Limigantes*, or those that had been Slaves to the other, who having committed such Outrageous Villanies, Justice, and the publick Utility required that they should be punished. For, imagining their former Condition, and what they had acted to be quite forgotten; now when they had Children also grown up, to make good what they had unjustly got, they as well as others had entred the *Roman* Pale, in this thing only agreeing with their former Lords, and now Enemies; yet it was resolved they should be more gently dealt with, than they had deserved; only be removed farther off, that they might not have so good Occasion to Insult the Empire, which it was feared they would still do, as doubting of Pardon for what they had formerly committed. They were not so inconsiderable but to expect the whole Brunt of the War would be turned upon them, and therefore resolved they would Treat and Intreat both, but with their Weapons in their Hands. And at first they made Show, as if they had been struck with Fear, at the Sight of the Army, and expected nothing but Destruction; they beg'd Pardon, promised a yearly Tribute, both of Money and Souldiers, to remain the Servants of the Empire; and seemed further to be willing to leave the Places they now held, and go further off; for they trusted to the Strength of the Country, out of which they had beaten their Masters. This Country is watered with the River *Partibiscus*, which after many Turnings and Windings, pourses forth it self into *Ister*; but before it comes thither, by degrees it hastens nearer and nearer; and both together they form the Land into a Strait, to the great Security of the Inhabitants. For, on one Hand *Ister* secured them from the *Roman* Coasts, and on the other, *Partibiscus* defended them from the Incursions of other *Barbarians*; The Ground thereto adjoining being also so Fenny, and perpetually Waterish, what by Reason of the Nature of the Soil, and what by the overflowing of the Rivers, that together with an Illand lying as a Rampart, almost in the Mouth of *Partibiscus*, these Obstacles barred all men of easy Access.

64. But to prosecute the Story of our *Limigantes*. Upon the Emperor his Call, who it seems, gave too much Credit to their humble Deportment, they came over to the hither Bank of the River, not to receive Commands, but, at length, to show, that

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that they were not afraid to face his Army; and there they stood so Surly and Humourous, as having come on purpose to refuse what should be enjoy'd them. The Emperor perceiving their Temper, by degrees so disposed of his men, as to encompass them, and then standing on a Place on purpose to be seen and heard, waited on by some of his Principal Attendants, and his Guards, he gently admonished them to be Quiet. But they fell into Disorder, not well agreeing amongst themselves, and joining Craft with their Fury, mixed their Desires of Peace with a sort of Stratagem; for preparing for an Onset against the Emperor's Men, they cast their Targets at a great Distance from them, as it were in Jest, that going to take them up, they might gain so much ground. The Day drawing to an End, the Army, with Banners displayed, fell upon them; and they uniting themselves, with grinning Countenances, and menacing words made toward the Emperor, standing still in that Place we mentioned. This the Army not enduring to see, put it itself into the form of a Wedge, or, as the ordinary Souldiers in those Days termed it, of an Hog's Snout, and then with great Violence removed them; and *Constantius* his Guard (or the *Prætorian Cohort*) as they turned themselves to Fight, so belaboured them on their Backs, that they laughed them like so many Beasts; but they fell with insuperable Constancy and Resolution, showing by the horrible Noise they made, that they did not so much Bemoane their own Death, as they were tormented to see their Enemies rejoice therein; and some of them lying with their Hams or Legs mangled, and so unable to Fly, others having lost their Hands, and some not at all hurt by the Sword, but Bruised and Maimed by the Weight of those that fell on them, and ran over them; yet endured their Pains, and concealed them in Silence; not one of them, in all the Torments they endured, asked Pardon, cast away his Sword, or intreated to be dispatched; but holding fast their Arms, though in so much Misery, they esteemed it a lesser Crime to be condemned by the Strength of an Enemy, than the Dictates of their own Conscience; and were now and then heard to mutter, that what hapned to them was by Course of Fortune, and not for their own Desert. Thus in the Space of half an hour passed a brisk Conflict, and that there had been a Fight, the Victory alone declared. But scarcely was it over, when the Relations of those that were slain, of both Sexes, and all Ages, were drawn out of their Huts, and with another sort of Countenance and Demeanour, beg'd that what was past might be forgotten. But the Souldier now Heated, and provoked to Fight, neither spared those he found in this Posture, nor such as escaped from the Engagement; but setting fire to all before him, either burnt such as fled for Shelter to their Houses, or if they fled from such weak Refugees, received them on the Points of their Swords, and Lances. Some that escaped ventured to take the River, but were either drown'd, for the most part, or killed by the Missile Weapons of the Pursuers, and now it was resolved, that this sort of People should be rooted out.

The strange
Pertinacy
of the Sarmate
Ligeantes, for-
merly their
Slaves.

The other
sort, called
Picenses, sub-
mit.

65. This being effected against those they called *Amicenses*, with all Expedition the Army was sent against the other, which, from the Country they possessed, had the Name of *Picenses*, and from the Misery of their Neighbours, took warning to look to themselves. It being difficult to find them out, or come at them by such as knew not the Place, the *Taifali* were taken in as Assistants, and so were the *Free Sarmatæ*, their Masters. That they might be sure to catch them in one Place, or other, the *Roman* Souldiers chose to range that part of the Country lying next to *Mæsia*, the *Taifali*, that which bordered upon themselves; and the *Free Sarmatæ* what was most convenient for them, as lying over against their Seats. The *Ligeantes*, or Slaves, seeing their Danger, consulted whether they should dye, or yield up themselves, not wanting Arguments on either side; but the Opinion of the elder sort prevailed, that they should submit. Having received then the Publick Faith for their Security, they came down from the Mountains, and flocked with all their Relations to the *Roman* Camp; and there they consented to remove into other Places, where they might live in Peace and Security, and willingly they seemed to accept of these Terms, though, as the sequel proved, they could not forsake their Natural Humour, with the Country; but fell again to their former Fierceness, and mad kind of Life. Matters so well succeeding, the Emperor provided well for the Security of *Illyricum*, and Restored an Injur'd Nation to their former Seats; which done, he set over them as King, *Zizak*, such an one also, as they themselves had made Choice of; hoping, that though they were Fickle enough, yet this would be a Means to oblige them to continue Quiet. The Victorious Army for these Achievements, gave to their Emperor, the second time, the Surname of *Sarmaticus*, who by a gentle Speech as his manner was, much pleased them, and they re-
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turned to their Tents with these words in their Mouths, that *Constantius* could not be overcome. Had *Julian* been the Man, we should possibly have heard more of it from *Ammianus*. But, Matters thus settled, *Constantius* returned back to *Sirmium* in Triumph, for which he was afterward Jeered by his Cousin *Julian*.

66. And there we find him about the beginning of *June*, by several Edicts made at that City in this Month. Two of these have relation to Corporations; especially those of *Africk*, to the *Vicar* whereof, *Martinianus*, they are Directed. The one deprives such as had obtain'd in the Emperor's Court, the Honorary Dignity of *Perfectissimus*, or *Comes*, and Orders them to be returned back to their Duties in such Places; and the second so much denies any Privilege from such Services to Souldiers in the Armies, that the very *Veterani*, or those who had obtained Letters of Dismission, it also Remands back again. About the latter end of *June*, from *Sirmium* he went to *Mursa*, another Town of *Pannonia*, where he made another Law *Talis*, concerning the same Subject, but to be spoken of in another place; and thence returned to *Sirmium* in a short time; where, by other Edicts, it appears, that he continued the remaining part of all this year. The next following, being the Twenty third of his Reign, and of our Lord the CCCLIX, into which fell the *Consulship* of two Brothers, *Eusebius* and *Hypatius*; he remained at the same place, or thereabout, till the Month of *June*, where we shall leave him for a while, and visit *Julian* in *Gall*, and see how he there Employed himself in his Winter-Quarters. And there you may be sure, that this Person, famous for his continued Successes, (for *Ammianus* and *Zosimus* cannot speak of him without such Parentheses and Flourishes) though at present he was freed from the Burthen of War, yet was no less Thoughtful for the Safety and Prosperity of the Provinces, diligently observing whether any one was Overcharged in the Publick Taxes; whether Oppressed by Great Men; whether any grew Rich by Publick Calamities; or any Judge was Corrupt or Partial. And yet, as to the last point, there was the less occasion for him to shew his zeal, because he himself Heard and Determined Causes with all Exactness possible, in respect to Justice; whereof, though many Testimonies were at hand, yet our Author thinks fit to Mention one Passage, by that to make an estimate of his other Acts in this very kind. *Numerius*, who a little before had Governed the Province of *Narbon*, was Accused of Rapine before him; and he was so Severe as to hear all that would object any thing; but he Answered, and so well Defended himself, that nothing would stick; at which, one *Delpidius*, a bitter Orator, who was Employed against him, thus Applied himself to *Julian*; Who can ever be Guilty, if it be sufficient to deny? To whom he Replied prudently extempore, Who can be Innocent, if it be sufficient to have Accused?

How *Julian*
behaved him-
self in his
Winter-Quar-
ters.

He marcheth.

67. This, and many other things of the like nature he did, but being now to take the Field, and knowing there were some of the *Almani*, who, having not yet felt the Smart of the War, would in all probability make him more Work, if they were not also Chastised, He considered how he might best come upon them on a sudden. He Dispatched one *Hariobauer*, a *Vacanti Tribune*, as they called him, a man of Approved Fidelity and Valour, upon a Message, as was pretended, to *Hortiarius*, a *German* King, with whom he had Peace; that under that Pretence, the Messenger might slip into the Country of those he intended to Invade, which was near at hand; and being well skill'd in their Language, Discover their Intentions and Practices in order thereto. While he was about this Work, *Julian*, having Rendevouz'd his Army, marched first to such places upon the Borders as had been Demolished in the Wars, to take care for Rebuilding the Towns, and especially Repairing the Publick Granaries, therein to lay up the Corn that he sent for out of *Brittain*; and this was vigorously prosecuted, and in good time well Effect-ed; the Store-houses being both Repaired and Replenished, and these seven Towns Reinforced, viz. *Castra Herculis*, *Quadruburgum*, *Tricesima*, *Nivesso*, *Bonna*, *Antennacum*, and *Bingio*. For the *Barbarians* themselves, according to the Agreement of the preceding year, though more out of Fear than Love to the Commander, sent Plenty of Materials; and the Auxiliary Souldiers, who were wont to scorn such Employments, were yet so won upon, by the obliging carriage of *Cæsar*, that they willingly put their shoulders and hands to the Work, both bearing Burthens, and serving otherwise in the Building. *Hariobauer* having fully informed himself, return'd, and gave an Account how Matters stood: whereupon *Julian*, further strengthened since his Departure, by the coming of *Florentinus*, the *Præfectus Prætorio*, who brought both a good Party of Men with him, and Provisions enough for a long time; set forward, and came to *Moguntiacum*, or *Mentz*, where *Florentinus* and *Lupicinus*, the Successor of *Severus*, the one after the other, contended, that
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there

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Sect. 4. there he should pass the River by the Bridge: but *Cæsar* by no means would be brought to it; alleging, that the Territories of those that were now their Friends, they ought not to enter; left the Souldiers, as their Manner is, should commit any Disorders, and thereby the Peace be broken. And all the *Germans* (or *Almans*) thereabout were so concerned at the Approach of the Army, that they came to King *Summarus*, who had made his Peace before, and in a Menacing manner Commanded him to hinder the *Romans* from passing the River, for they were his Territories that lay next to the Bridge, on the *German* side.

68. He protested, that of himself he was not able to do it; whereupon they all gathered together, and in great Multitudes stood over against *Mentz*, with all their Power to hinder *Cæsar's* Passage, whose Council now appeared to be very reasonable. As he marched from *Mentz*, they also observed his Motions near the *Rhine*, and where they perceived he incamped himself, there late down over against him; taking no Rest, but still observing him, lest he should get over. But when he was come to the Place resolved on, consulting with *Lupicinus*, he gave order to certain *Tribunes* to make Choice of three hundred men with Stakes, without acquainting them what they should do, or whether they should go; but being put aboard the forty publick Vessels, which lay in the *Rhine*, called *Navæ Lusoria* s, they were Commanded, without making the least Noise, with Oars to get to the further Bank, and there Land, while the *Germans* still watched the Fires that burnt at the Camp. In the mean time *Hortarius*, both Friend to the *Romans*, and to his Neighbours, without any Design, had invited all the Kings and petty Princes to a Feast, which according to the manner of the Nation (at this time pretty well inclined that way) they continued till the third Watch of the Night. The *Romans* being Landed, by chance fell upon them, as they departed; but could not Kill, or take any one, they making their Escape by the Darkness of the Night and the Swiftness of their Horses, but slew some of their Servants that followed on Foot, whom the want of Light did not Conceal. But upon the Noise now that the *Romans* were Landed; they that so unanimously resolved to hinder the making of a Bridge, as well Kings as People, all ran away, and endeavoured to remove their Goods and Relations further into the Country, giving the *Roman* Army free Passage. Through the Territories of *Hortarius* they passed without giving the least Offence: but coming once to touch those of the Kings, that still continued Enemies, they burnt, and kill'd all before them passing without Opposition through the Countries. After much Mischief done in both kinds, they came to a Place called *Capellatium*, or *Palas*, at the Confines of the *Almans* and *Burgundians*, and there incamped, to receive *Macrianus* and *Hariobaudus*, two Kings, and Brothers; who perceiving Destruction to draw very near them and theirs; in great Anxiety came to be reconciled, whom followed *Vadomarius*, another King, formerly received as a Friend and Client of the *Roman Empire*. The Matter was debated in a Council of War, and *Macrianus*, with *Hariobaudus*, his Brother, was admitted to make his Peace: but whereas *Vadomarius* came to intercede for *Urinus*, *Vidicinus* and *Vorsalus*, three of his Neighbour Princes, it was not thought fit at present, to shew them the same Favour; left, being according to the Humour of the *Barbarous* Nations, Fickles; after the *Romans* were departed, they should make little Account of what was obtained by the Intercession of another. Yet when after their Corn, and Houses were burnt, and many of their People slain; they again sent, and owned themselves to be in Fault. Peace was Granted upon Terms; whereof the most important, and pressing was, that they should restore also those Captives, which they had taken in their frequent Incursions.

69. While the heavenly Providence thus corrected what was amiss in *Gall*, as our Writer observes, new Disturbances hapned in the Emperour's Court; which from small Beginnings so far proceeded, as to end in Sadness and Lamentation. There hapned at the House of *Barbatio*, then *Magister Peditum*, a Swarm of Bees; at which Prodigious, you must know, much concern'd, he solicitously consulted such as were skilful in so great Mysteries, and had for Answer, that it portended some great Danger, because that sort of Creature is driven from it's Habitation, and Wealth it hath heaped together, by Smoak, and the Tinkling of Metals. He went his way to the Field in great Anxiety and Fear; but left behind him his Wife, *Affria* by Name, a Tatling and Imprudent Woman; who taking the Matter in good Sense for her Husband, but a bad one for her self, wrote to him a Letter by the hand of her Maid, in a weeping Style; beseeching him, that after the Death of *Constantius* now approaching, when he should be advanced to his Place, (as she hoped) he would not despise her, and marry *Eusebia*, the Empress, for her extraordinary Beauty, wherein she

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Barbatio, and his Wife put to Death through her Folly.

excelled most other Women. The Letter was as Secretly conveyed to him, as could be, but the Maid that wrote it, cunningly kept a Copy; and when all were returned to their Winter-Quarters, ran away with it by Night to *Arbeto*, to whom it was not a little Welcome. He, who was ever greedy of such kind of Work, brought it to the Emperour; and thereupon the Parties were examined, who both confessed; he, that he received it, and she, that she wrote it; for which Crimes they were both Beheaded. But the Inquisition did not here rest: many, as well Innocent, as Guilty Persons, being brought into Trouble: amongst whom was one *Valentine*, that had been a *Primerius* of the *Præfecti*, now a *Tribune*; who being much tortured would not, because truly he could not, confess any thing; for he was an absolute Stranger to the thing, as to which *Constantius*, at length satisfied, made him amends, by preferring him to the Dignity of a *Dux in Illyricum*. As for *Barbatio*, there was scarcely any one that pittied him, being a man of a Surly and Arrogant Behaviour, and upon that Account hated by many. Having the Oversight of the *Domestick Protectors* under *Gallus Cæsar*, he was to him False and Perfidious; and after his Death, when preferred to so eminent Place in the Army, he feigned the like Crimes against *Julian*; and to the Regret of all Good men, frequently suggested to the Emperour, whose Ears were open to all such Matters, cruel things, not knowing that wife Saying of *Aristotle* to his Disciple, and *Kinfinan Callisthenes*, when he sent him to *Alexander*, that he should converse as seldom as he could; and when he did it acceptably, with him, who carried the Power of Life and Death on the Tip of his Tongue. To this Story of *Callisthenes* thus applied, *Ammianus* adds another Observation; that not only men, the minds of whom may be believed, to be akin to Heavenly Bodies; but even other Animals, though they want Reason, yet are taught by Nature to keep Silence, when their Safety is thereby preferred; as it appears, faith he, by one well known Example. The Geese leaving the Eastern Parts, because of the Heat, and flying to the *Northern*; when they come to the Mountain *Taurus*, which abounds with Eagles, being in fear of those valiant Birds, they stop their Beaks with Stones, on Purpose, that the greatest Necessity may not draw from them any Noise, which might Discover them; but when they are over, and past the Mountain, they immediately let them fall again, and so securely prosecute their Journey.

70. But, besides these Matters of Jealousie and Punishment, we find *Constantius* employed at this time about other Affairs. And first, we must take Notice of an Edict made now by him, than which scarcely any one Law hath given greater Occasion to learned men of late time, to exercise their Critical Wits. *Constantius* the Great, had formerly thought fit to exempt his Patrimonial Lands, and those called *Fundi Emphyteutici*, which lay in *Italy*, from extraordinary Services, as well as those that lay in *Africa*, and that they should be only Subject to the ordinary Payments of Tributes, or of the Species *Annonariae*, and *Cellariensis*, formerly mentioned. Now by another Edict directed to *Taurus*, the *Præfectus Prætorio of Italy*, and proposed *at Rome*, on the seventh before the Calends of *March*: *Constantius* his Son ordains, That this Privilege, after the Examples of *Africa*, and *Italy*, be also extended to those kinds of Lands lying in the *Urbicarian* Regions, and in *Sicily*. What the Prince his Patrimonial Lands were, the Reader may understand, by what we have formerly said of his Patrimony, and the Officers belonging to it, as the *Rationales*, and *Procurators*. As for the *Emphyteutici*, or *Emphyteuticarii*, they were those of them, that were granted out to private Persons by way of an *Emphyteusis*; that is, for such to hold them for ever, provided they paid so much as was requir'd (as *Canon* they termed it) for an Acknowledgement; and they were usually Barren Lands, which these Persons were to Cultivate and Manure. But this Matter the present Nature of our Work allows us not to inquire further into; but to take Notice of several other things very notable in this Law, and proper for our History. As first, at this time there were these four remarkable Provinces in the Diocese of the *Præfectus* *Vide Gothicos* *Prætorio of Italy*, distinct, and several, *viz. Africa, Italy, the Urbicarian Provinces and Sicily*; agreeable to what *Zosimus* writes, though not with such Distinction, concerning the first Institution of this *Præfecture* in the Time of *Constantine*; although neither doth that Prince appear to have been Author of the four *Præfecti*. In the second Place, and especially, are to be taken Notice of, the *Urbicarian* Regions, Separate and Distinct, as from *Africa*, so from *Italy*, and from *Sicily*. Now the *Urbicarian* Regions were those Countries lying within an hundred Miles of *Rome*; and *Italy*, (when no more is added) signifies in the Constitutions of Princes, all the remaining Parts of *Italy* lying beyond them. And it is as important (almost) to take Notice, that in this Law is the first and most antient Mention made of these

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By a Stratagem Invades Gaul.

Which constraints several Princes to submit.

Constantius makes a Law about the Exemption of his Lands from extraordinary Services.

The *Urbicarian* Regions, which.

L. 1. 2. de Extraordinariis. Cod. Th. ubi supra.

L. 9. de Exce. Ordinariis. C. ubi hæc Lex a Cod. Justin.

Vide Gothicos Prætorio in Legum.

Sec. 4. *Urbicarian* Regions, which occurs no where before in the time of *Constantine*; A. D. 352. whereof this may well be taken for a Reason, that about this time *Constantius* brought up this Division and Distinction, for settling the several Jurisdictions of the *Præfatus Prætorio of Italy*, and the *Præfatus* of the City in the Point of Appeal, as was noted a while ago; whereas formerly the *Præfatus* of the City received Appeals, or challenged them out of all the Regions of *Italy*. But now *Constantius* confined him within his peculiar Diocese, and brought up this new Appellation of the *Urbicarian* Regions, as being the Diocese of the City it self, whose *Præfatus* should only within it, by his Order, have this kind of Jurisdiction. And indeed at this time, as *Gothofred* further observes, peculiar Governours seem to have been given to the *Urbicarian* Regions, or Provinces, as namely to *Tuscia*, and *Picenum*; though afterwards, they became again united with the *Provincie Annonarie*, of which heretofore. This Law was propoed to view at *Rome*, because it belonged to it's Diocese. Further, *Sicily*, *Sardinia* and *Corfica* are mentioned by *Zosimus*, as in equal Right under the *Præfatus Prætorio of Italy*. But here *Sicily* is separated from them, as alone enjoying this Immunity, though all three had but one *Rationalis*. And neither is it reckoned here as United to the *Urbicarian* Regions, nor yet to *Italy*, which afterward it was.

71. On the fourteenth of *March* he made another Edict, directed to *Helpidius*, L. 5. de Expedi- the *Præfatus Prætorio of the East*, relating, as we may easily guess, to the War now again drawing on against the *Persian* (of which shortly) and Commanding that the Souldiers should carry with them Provision for twenty dayes *March*, out of the Publick Store-houses. This Quantity of Viſuals for juſt ſo many dayes, we lately observed *Julian* to have Ordered his Souldiers to take along with them in their Expedition against the *Germans*, and that from *Ammianus Marcellinus*, who calls it *Buccellatum*, which was Bisket, or a kind of Bread, but lighter than the ordinary sort, and which would keep a longer time. The Souldiers were wont in Expeditions to take this *Expeditionalis Annona*, as the Law calls it, along with them, (yet the old custom was but for seventeen dayes) and *Ammianus* saith, they carried it on their Backs. But, besides this Edict, he Directed two others, concerning this same Subject, and to the same Person, *Helpidius*; and therefore we may well conclude, upon the same occasion of the *Persian* War, which we shall here add, though the one was made the year going before this whereof we write, and the other in that which followed it, because it will not be unprofitable to the Reader to know the Usages of the *Romans* in these particulars. The first was Dated not three Months before that of which we now speak, and but four dayes before the beginning of the very year; and Commands, That when the Souldier is in Expedition, he have allowed him two dayes together the *Expeditionalis Annona*, and on the third day Bread and Wine. For *Annona*, the same with *Buccellatum*, or the Ammunition-Bisket, is meant, to which is to be added Vinegar; for, as the one *Jan. Hierapoli* is opposed to their common and ordinary Bread, so the other to Wine, which they had usually in their Quarters, but not so in their Marches, because of the convenience of Travel, as is most probable, the one sort being much lighter than the other; but as for Vinegar, it seems added for Drink, being mingled with Water, and also perhaps to give a grateful Taste to the Bisket, and make it go down; which kind of Fare, the *Turks* at this day, out of their great Humanity, afford to their poor Gally-Slaves, to whom, when they Row very long, they give every man in his Wooden Bowl, that stands by his Chain, some Vinegar, wherein to sop his course Bisket, as a great and cheering Dainty. But in such manner did *Constantius* order the Fare of the Souldiers by this Law, as gave him no great Encouragement for so long and tedious an Expedition; for instead of Encouraging, he cut him short of the usual Allowance, which stipend afterward he found reason to alter, and by another Edict to prescribe another course of Allowance, thereby Repealing that scant and uneasy Law. In this he tells *Helpidius*, That frequent Custom shewed, how the Souldiers were wont in the times of Expeditions, to have allowed them, both the Bisket (or *Buccellatum*) and Bread, as also both Wine and Vinegar; and moreover, both Lard and Mutton, all in this Order: For two dayes together the Bisket, on the third day Bread; one day Wine, another day Vinegar; one day Lard, and Mutton for two dayes together. These Laws were Enacted in reference to the *Persian* Expedition: Now for the War it self.

72. *Prosper*, *Speſianus* and *Eustachius* being sent Ambassadors, as formerly was said, to the *Persian* King, presented the Emperor's Letters to him, now returned to *Ctesiphon*, and urged him, thereupon to make a Peace; though they kept themselves so close to their Instructions, and were so careful for the Honour of him that sent them,

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The Persian King resolves to have Armenia and Mesopotamia.

them, that they offered no unworthy or mean Terms; but required, that he would Engage in no Course that should tend to the Disturbance of *Armenia*, and *Mesopotamia*. But they found *Sapor* to obſtinate in that point, that except he might have those Countreys surrendered to him, he would yield to nothing: and therefore having long stay'd, and pressed the Matter, but in vain; they returned, and to see if they could speed any better in their Errand, two others were sent in their Room; which were *Lucilianus*, a *Comes*, and *Procopius*, a *Notary*, at this time; but who was afterward by Necessity driven upon such High Undertakings, that we shall then hear too much of him. Neither were their Endeavours so effectual as to prevail upon that Resolute King; who burning with a vehement Desire of enlarging his Dominions, made all Preparations he could against the Spring; and, as if he desired to fight against *Constantius* his Humour, as well as his Person and Territories, consulted Wizards about the Success, and what would after happen, than which nothing was wont more to discompose and vex the Emperor. What Disturbance was wrought upon him by hearing of this Practice of *Sapor*, we know not; but his Jealousie was supplied, and fed at that time by other Suggestions. For when the News of the *Persian* Preparations was come to Court, and all were in Suspense and Fear; the Fabrick, called the *Comitenſis Fabrica* (viz. that they were Chief in *Comitatu*, or about the Emperor) which always, both Night and Day, as our Historian breaks the Jest, hammered upon the Anvil what *Eunuchs* pleased, accused *Urficinus*, the *Magister Equitum*, to him; as one, who after the Death of *Syloanus*, when there was none left to take Care of the *Eastern* Provinces, designed no less than to set up for himself. This they did to gratifie *Eusebius*, the *Præpositus Cubiculi*, the only man with *Constantius*, and who plotted the Destruction of *Urficinus*, both because he alone was Independent of him, and needed not his Support, as the rest did; and also because he would not part with his House at *Antioch*, which he most earnestly Coveted. For these Reasons he caused the *Cubicularii* (as those that were under his Charge, and by their nearness to the Emperor, had full Opportunity to inflame his Jealousie) to infill Suspitions continually into his Ears against that valiant Man. Here *Ammianus* tells us, he cannot but commend *Domitian* himself, who, though by a Demeanour so unlike to those of his Father and Brother, he blems his own Memory, and contracted an inexpressible Detestation of his Name; yet was Famous for one most received Law he made; *Whereby he forbade, that any Boy should be Gelded within the Bounds of the Jurisdiction of Rome*; which if it had not happened, faith he, how could the Swarms of those Creatures have been endured, the very small number of which cannot be borne.

73. But *Eusebius*, and his Complices were so cunning, that for Fear *Urficinus* being again sent for, out of Apprehension of Danger, might do really, what they but feigned he had a Design to do; they thought the Matter was to be kept Secret, till a convenient Opportunity could be presented of putting him to Death, which while with some Impatience they expected, another Mischiefe of no small Consequence befel the Empire. There was one *Antoninus*, formerly a Rich Merchant, afterwards an *Apparitor Rationarius*, but at present a *Proteſtor* belonging to the *Dux of Mesopotamia*; a cunning Man, and very well versed in Business, who by several of the great ones being oppressed, could obtain no Justice against them; the Judges being still inclining to favour those in Power, so that perceiving there could nothing be done, he confessed a Debt, which his knavish Creditor transferred to the Treasury. But now designing in his head a profound Revenge, he began to search out all the Intrigues of the Empire, and being skill'd as well in one as the other Language, he inquired into the whole State of the Army; of what Numbers the several Parties consisted; of what Strength they were; where they Quartered, and who Commanded them in times of Expedition: as also about Arms, and Provisions, whence, where and how they were furnished. Having fully informed himself, when the Day of Payment of the Debt drew near, which the *Comes Largitionum* very rigorously exacted, he resolved with all his Family to fly to the *Persians*. And that so doing, he might escape the *Stationary* Souldiers, he bought a piece of Land, of no great Value, in a place called *Haphs*, lying upon the River *Tygris*; which being known, he was not at all suspected, or questioned, for going to his own Estate. On the other side of the River lay those *Persian* Territories, which were governed by *Tam Sapor*, one of the *Satrapæ* formerly mention'd; with whom, being formerly known to him, he held now Intelligence by some skilful in Swimming, being such as he could Trust, who in the Dead time of the Night, sent Boats, and fetch'd him over, with his Wife, and Children. Being conveyed to the King; as formerly *Maherbal* Blamed *Hannibal*, he often told him, that he knew how to get, but not how

Flies to the Persian King.

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to use a Victory; instancing within the Memory of Forty years, in several Passages; as after the Battels of *Hilcia* and *Singara*, especially in that bloody Battel fought by Night; so great a Slaughter having been made, he neither fell upon *Edeffa*, nor seized on the Bridges of *Euphrates*, as the Conquerours in Prudence ought to have done; especially the *Romans*, at that time, being embroyl'd in Civil Discords. These, and many other things he Discour'd at Meals, while the *Persians*, after the manner of the *Greeks*, consulted of War and other Serious Matters; and thereby Inflamed the *Persian* King with an Earnest Resolution to do his utmost the following year: and he made all futable Preparations, being Encouraged by the Skill and Promises of so understanding a Fugitive.

Ursicinus sent for to Court, and an unfit Person sent in his room.

74. In the mean time the Design against *Ursicinus* went on at Court, where the Emperour's Followers, by the special Assistance of *Eunuchs*, brought the Plot against him to some Perfection, &c. that sort of Creature being over-greedy and Ravenous, and themselves capable of no Children, most Ferivently, (as *Amianus* observes) embraced Riches as their Darling-Daughters. And it was Resolved, that *Sabinianus*, a Decrepit, Old man, well-money'd, but Lazy and Feeble, hitherto thought too obscure for such a Dignity as that of *Magister Militum*, should, in his room, be sent to Govern the *Eastern* Parts; he being called to Court under pretence of Succeeding *Barbario*, in the Command of the Foot; that so being greedy of Innovation (as they affirmed) he might be Expoted to the Observations, and Arts of his greatest Enemies. *Sabinianus*, Elevated by his New and Unexpected Dignity, went to his Charge; and being come to *Cilicia*, gave the Emperour's Letters to his Predecessor; the purport of which was, that he should hasten to Court to receive a greater Preferment, at that juncture of time, when, although he had been absent, as far as *Thule*, there was great need of his Return, who had had so great Experience in the Conduct of Military Matters; and especially in what concerned the *Persian* War, which was now pressed upon the Empire. The Rumour being spread abroad, that he was Recalled, the several Cities and Countreys concerned, by their Unanimous Desires, and Cries, would needs stop him, beholding him no otherwise than as their Guardian: for they called to mind, how, though he entred upon his Charge with Forces of no value at all; yet had he preserved his District, and lost nothing for Ten years together; and they very much suspected their own Safety, being now to be Protected by a very Coward, and that in so Critical a Time as now was coming. But strange it is, that the Report of this Designed Alteration should so speedily fly into *Persia*, (our Writer tells us he doth not doubt but swift Fame flies through the airy paths) where a great and serious Consideration being held thereupon, by the Advice of *Antoninus*, it was Resolved, That seeing to unfit a Person was to Succeed *Ursicinus*, they should take the fair Opportunity now offered, and passing by the Towns standing upon the Borders, march with all convenient speed into those Countreys under his Conduct, and seize upon them, the greatest Attievement of all others; they having never been touched since the Days of *Gallicanus*, and by reason of the long Peace they had enjoyed, abounding with all things.

Hence the Persian takes heart.

75. In the mean time, *Ursicinus* and his Followers, (amongst whom was *Amminius* the Historian) having staid a little on this side the Mountain *Taurus*, halted, according to the Orders receiv'd, towards *Italy*, and were come as far as *Hebrus*, a River falling down from the Mountains of the *Odryse*. There he received other Letters from *Constantius*, requiring him without Delay to return into *Mesopotamia* without any Guard, for that the Power was put into another man's hands; which his Enemies contrived for this Reason; that in case the *Persian* returned without any thing done, the Honour of the Defeat might be Ascribed to the New Officer; but if he prospered, the Miscarriage on the *Roman* side might be imputed to *Ursicinus*, as a Betrayer of his Countrey. Being thus tossed up and down, without any good reason, yet he obeyed after some Dispute; and being returned, found his Successor very scornful, a man of mean Stature, and as narrow a Soul; so far from being fit to manage a Battel, that without Fear and Trembling he could scarcely hear the Contentions, which occasionally happened at the Table. One Messenger still Confirming what another brought concerning the great Preparations of the *Persians*; it was Resolved to march to *Nisibis*, lest the Enemy, however looking another way, should make an unexpected Attaque upon it. Whilst they were Fortifying the Place, the great Fire and Smoke seen from the Walls through the Countreys lying near to *Castra Maurorum* and *Sisera*, which grew greater and greater, as they nearer approached, gave warning evident enough, that the *Persians* had passed

The Persians pass Tigris.

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passed *Tigris*. *Ursicinus* then with some Forces went to Coast about the Country, and gave such Order as he saw convenient, for Prevention of so great Mischiefs as impended: and it was thought fit, that the Inhabitants should be compelled to quit the Country of *Mesopotamia*, and Retire, with all they could into the strong Holds; to leave *Carrae*, a City not tenable, the Walls were so much decayed; to let all the Corn and Grafs on Fire, and fortifie the hither Bank of *Euphrates*; so as the Enemy might find no easie Passage; and the Autumn being so far come on, that the Corn was now turned white, the Fire took and burnt up all; so that the *Persians* could find no Forage, nor any Ford to pass the River; till by *Antoninus* the Fugitive, they were led more unto the Right Hand, where there was Grafs and Corn enough, and the River near it's Head, was not so swoln with the melted Snow, which lower down in abundance fell upon it. The *Roman* Troops light amongst those of the *Persian*, and *Ursicinus* had the Fortune to see *Antoninus*, whom, having espied, he Reviled as a Villain and a Traytor; but he not endeavouring to conceal himself, Leaping from his Horse, took the *Tiara* from his Head, which had been given him as a Badg of the greatest Honour, bowed himself near to the Ground, and giving him the Titles of Patron and Lord, holding his hands behind him, as the Custom for Supplicants was in *Affria*, prayed him to pardon him; for that he was engaged in a Course he knew to be naught, not by Choice but Necessity, through the Advice of some Rapacious Persons, against whom he himself could not but remember, that his high Place and Power was not able to protect him. Which said, he withdrew himself, not turning his Back, but going backward, till out of Sight; as the Custom was in those times, and since hath been practised by the *Eastern* and *Northern* Nations.

Take two Roman Gallies, and proceed to *Amida*.

76. *Sapor*, the *Persian* King, attended by *Grunbates*, King of the *Chionites*, besides the King of the *Albanis*, and followed by a vast Number of men, took two *Roman* Castles, called *Reman* and *Busjan* by Surrender, and to those he found therein, shewed himself very merciful, to obliterate the prejudice which his former Cruelties had procured against him. Thence pursuing his Design, on the third Day, he came to *Amida*, where he did not think of making any Stay; but resolved to pursue those Councils that *Antoninus* had suggested. For he concluded, that those within, at the first Sight of him would not dare to hold out; and he in Person rode to the Gates, on Purpose to be seen, having his Guard about him, and wearing on his Head an Ornament of Gold, resembling the Head of a Ram, all glittering with Gems, for a Diadem. But with this Sight the Defendants were not so dismayed, but that while he pressed on, they had the Courage to lie flat at him, and there he had perished in his Gaiety, if the Dust had not intercepted their Sight; so that he escaped with Loss of part of his Robe cut from him by a Javelin; though sufficiently enraged: for he exclaimed against them, as equally Criminals, with those that had Sacrilegiously robbed some Temple, in that they had offered Violence to the Majesty of him that was Lord of so many Kings and Nations; and most earnestly was bent to destroy the City, as contaminated by so great guilt, till by the gentle Insinuations and Petitions of his Captains, he was mollified, who besought him, that together with that Town, he would not Sacrifice the Hopes of so great an Enterprize, as he had undertaken, to his Anger. Next day therefore he resolves to summon the Place, and for that Purpose *Grunbates*, King of the *Chionites*, goes with a Company that offered themselves, towards the Walls, whom as a skillful Engineer saw approaching, he levelled, and let fly at him, and though he mist his Person, yet he killed his Son; a Goodly, Proper Youth, that went close by him. With this Accident such as were present were so struck, that they all ran away; but conceiving themselves obliged to fetch off the Body, again returned, and by their great Cries and Lamentations, provoked those other sorts of People that were with them to do the like. Now followed a most deadly Contest, the Darts and other missile Weapons flying like Hail, and till Night it continued, by the Darknes whereof covered, at length they got off the Body, drawing it over Heaps of other Carcasses, and through Rivulets of Blood, and celebrated the Funeral, according to the Rites

His Funeral, after his own Country manner.

Grunbates, King of the *Chionites* dissuading, goes to summon the Town, and bath his Son kill'd.

of his own Country, in this manner. He was placed armed, as he was wont to be, on an high and large Scaffold, and about him ten Beds, whereon lay so many Images, so well ordered, that they represented Bodies already buried; and for seven Days together, all the men that lay at their Quarter Feasted, and Danced, and Chanted certain Songs, whereby they bewailed the deceased Prince, while the Women in the mean time, with miserable Lamentations complained, that the Hope of their Nation was cut off in the Flower of his Age. This Solemnity finished, the Body was burnt, and the Bones put into a Silver Urn, which the Father had intended

Id erat Oras-
mentum ex Au-
re & Margaritis
confectum, quo
Persianus Ma-
gistratus, Re-
gis parafissa,
Capitula redi-
ebant.

Amianus
lib. 19.

Señt. 4.
It's resolv'd to
Sacrifice the
City to his
Ghost.

The manner
of the Siege.

A violent At-
tack,

Renew'd
without Suc-
cess.

affricious wil-
ling, but not
able to Relieve
it.

A notable At-
tempt of the
Persians mil-
litaris.

tended to be sent to be buried in his own Country: but it was resolv'd, upon a Consultation, that by a Funeral Pile of this City it self, a Parentation should be further made to his Ghost; neither would *Grumbates* suffer the Death of his only Son to go unpunished.

77. After a Repose of two Days, wherein yet a Party was sent out to waste that Fertile Country, round about, they began their Work; when early in the Morning from the Walls no Prospect could be had, but that of Armed men, dispos'd to their Post toward the East, where the Prince was kill'd; the *Verte* lay toward the South, the *Albani* to the North; and to the Guard of the Western Coasts were Assigned the *Segefant*, of all others the most Warlike, and further strengthened by a Company of Elephants, terrible to behold. Now did they within think of nothing, but how to dye with most Honour, the best thing they could hope or wish for. From Sun rising to it's setting, the Army stood in that Posture of facing the Town, not in the least stirring, nor so much Noise, as that of the Neighing of an Horse being heard; and their time once out, they retreated again to their Camps, where they refresh'd themselves with Meat, and Sleep. But when it was almost Day, the Trumpets sounded, and they again begirt the Place, which looked as if it would have been shouted down to the Ground by so great a Multitude; and when *Grumbates* call up his Lance, befincared with Blood, as the Manner of his Country was, they instantly attack'd the Walls; and a dreadful Fight ensued; the Besiegers with all Alacrity giving the Onset, and the Defendants with as much Resolution receiving them, and defending themselves with Engines, Arrows, and as otherwise they best could; so that on both sides vast Slaughter was made, and all the Day it continued; neither could Night it self force them to give over, so eager were they and obstinate in the Prosecution of what they desired, continuing in their Arms all the Night. The Hills echoed again with the Noise, while the *Romans* extolled the Virtues of their Emperor *Constantius*, as the Lord of the World; and the *Persians* roared out, that *Sapor* was *Saanfaan*, and *Pyrofoes*, whereof the one signifies King of Kings, and the other Conquerour in Wars. Before it was light the Alarme was again founded to renew the Storm, and Innumerable Companies flocked together; so that at Day-Break nothing could be seen throughout the Plains and Vallies, but the glittering Arms of these savage Nations. With a great Shout they gave the Onset, and the whole day this second Dispute also continued; when the Numbers of Wounded on both sides were so great; that the ensuing Night had now that Operation upon them, which the preceding could not effect; for the Besiegers drew off, and they all applied themselves, as well as they could, to cure their Wounds, of which there was a sad Spectacle in the City. *Ursicinus*, though much disdainful, that he was subjected to the Command of another Person, especially such an one as was *Sabinianus*; yet sent to him, and advis'd him to bring his *Velties* into the Field, that they might take such Advantages, as were presented, and fall in upon the Enemies Trenches on a sudden, or intercept him by Stratagems, as he removed from Place to Place. But he refused to do this; pretending publicly, that his Instructions were to act only in such Ways and Methods, wherein the Army could not be endangered; but indeed, he remembered what secretly had been agreed on, betwixt himself, and those that procur'd him the Command, to cut off all Occasions wherby his Predecessor, who ever burned with Desire of Glory, might do any thing that would procure him Honour; though the Provinces lay at the Stake. Therefore could he do no more, than often to send abroad his Espials, to know the Condition of *Amida*; though they could not come near the Town; and other things he attempted, but, being without Power, to no Effect; and so fretted and tired himself, as a Lion, how Big and Grim soever, seeing his Whelps caught in a Net, Fomes and Rages; but dares not go in to their Relief, being deprived, both of his Claws and Teeth, as *Amunianus* frames the Comparison.

78. But, to other great Difficulties wherewith the besieged strugled, this also was added; that by reason of the great Multitude of dead Carcasses lying in the Streets and Passages, greater than could presently be buried; such a Stench arose, as joyning with the Heat of the Season, and the Infirmitie under which the People labour'd upon other Accounts, it bred a Pestilence; but this again was allwaged, the Air being tempered by some Rain, which fell on the Night that followed the tenth Day of the Siege. Now with more Vigour than ever, to attacke the Place the *Persians* raise many, and great Mounts and Turrets, on which they set their Engines to batter the Walls, and there being a Defcent from a Tower down a steep Rock, by Staires; some seventy Archers of the King's Guard, and bolder than their

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Two Legions
of Gauls trod-
downe in the
City, and will
needs make a
Silly.

Fail of a great
Design.

A Truce for
three dayes.

Another On-
set.

Fellows, upon Discovery thereof, made by a Fugitive, got up into the Tower, and thence shewing themselves, put the Besieged into great Fear; all the Army at the same time, as had been designed, giving a fresh Onset; but five of the smallest Battering Rams being levelled against these Adventurers, did such Execution upon them, that some were killed, and the rest, wounded or scared, fell down the Precipice, and miserably perished. This Success most Animated the Besieged, who now removing the Engines to their former places, with much more Alacrity and Ease defended the Walls; but they had hereby the more leisure to see that which very much Afflicted them, viz. a great multitude of People miserably led into Slavery, out of several Forts in the Country; into which, for security, they had flocked at this time of Dangers; many of whom, of both Sexes, being spent with Travel, and not able to hold out, they cut their Hamstrings, and left them behind in the Roads. There were in *Amida* two Legions of *Galls*, which formerly had belonged to *Magnentius*, very stout, and swift of Foot, and therefore fit for any Combat on plain ground, but for Defence of a Town very improper; nay, they did more Harm than Good: for giving no Assistance, either in the raising of Engines, or other Works upon the Walls, they hindred others; but they would make Salles, without either Fear or Wit; and though Fighting with all Confidence and Courage imaginable, often came short home; and when the Gates were to be kept shut, and the *Tribunes* desired them to Forbear, they would rage exceedingly: But now beholding the Drowes of Miserable People, they were more earnest than ever, to be out, and threatened with Death the Officers and others, if they would not suffer them to Issue forth upon the Enemy; and they cut the Gates with their Swords, as esteeming it the highest point of Indecency, for them to perish in a Conquered City, without having something Notably performed, and suitable to the Magnanimity of their Nation. The Commanders knew not what course to take, and at length consented, that if they staid but a little, till the Besiegers were further drawn off, they should fall upon their Guards, and breaking through them, proceed further, as they saw convenient; for they knew they would do great Execution upon them.

79. In the mean time, the Walls were Defended all wayes possible, and the *Persians* having raised two very high Batteries, to annoy the Town; the Besieged raised other two higher than they over against them. Now came a Dark and Misty Night, and the *Galls* would be kept in no longer, but out they went at a Postern, Armed with their Swords and Battle-Axes, and they Fortified themselves by their Prayers. They endeavour'd so much to surprize the Enemy, that they would scarcely breathe for fear of making a Noise, and killing some of the Sentinels, came to the Fore-Guard, which easily cutting in pieces, as having not the least Apprehension of any such Matter, they purposed, and hoped to reach to the King's Quarter, ere they should be much Disccovered; but the Cries of the Wounded, and the Noise of such as shifted away, gave the Alarm timely enough to his Guards, and the Souldiers were so soon on their Legs, and ran such multitudes together, that the Daring *Galls* were presently at a stand, finding themselves frustrated of what they had Principally Designed, and without turning their Backs, retired by degrees out of the Lines, as utterly unable to sustain the Violence of those that came upon them. Now were the Gates cautiously opened to receive them, and in they were taken, with the loss of four hundred of their Company, besides some that were mortally Wounded, having narrowly missed of killing the *Persian* King, though encompassed with an Army of an hundred thousand men; for which, and other Bold, and sometimes more Successful Attempts, the Emperor caused the Statues of the chief Leaders of them to be Erected in a place of Concourse, at *Edessa*. When the Light came and discovered what Mischiefs had been done, much Lamentation there was heard of the Kings and Nobility, for the great Loss they had sustained of their Friends and Relations; for, many *Satrapas* and other Great Persons were kill'd, and a Truce was agreed on for three dayes; the Besieged being glad to have so much time wherein to take some Breath. But the Enemy Enraged now more than ever, resolv'd, either by the Destruction of the City to Appease the Ghosts of the Slain, or Perish in that Glorious Attempt; and all sorts of Engines and Devices they prepared, against the time the Truce should be expired; resolving to take that course, seeing that down-right Force could not prevail. By break of Day they came on, not as formerly, but in great Order, covered with their Machines; yet did the Arrows and Darts of the Besieged great Execution, none of them falling in vain; and the *Persians* were forced to separate, though they sorely annoyed the *Romans* by their Engines of Battery placed upon Turrets covered with Iron, which being much higher than those of the Defendants, killed them many men. In this manner was all this Day spent; and the most of the next Night the Besieged passed, in considering how they

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againſt thoſe Turrets, whereon were Mounted thoſe Engines call'd *Baliſte*, to plant
four of that kind, which had the name of *Scorpions*, and all Haſte was uſ'd to get
them planted, e're the Light could diſcover them; which, though it could not fully
be Eſſect'd, yet, when they came to play with round Stones caſt out of them, the
Baliſte were Diſmounted, the Turrets broken down, and the Fall of them drove
back the Elephants with Violence upon their Maſters; which Violence was diſſiv'd
into Fury by Fire caſt upon their Backs.

Renewed the following day.

In which, the
Wall being
Broken by
the fall of a
Mount, the
City is taken.

*Ammianns the
Historian
escapes.*

**The City Ra-
zed.**

Super having
left before it
8000 men.

80. Thus were the Batteries broken down, but the Fight, for all that, did not intermit. The *Perſian* King himſelf, though not obliged to be preſent in Battel, thruſting amongſt the thickeſt, like an ordinary Souldier, and Encouraging his Men; neither was he daunted by the ſhowers of Arrows that fell near him (being ſufficiently known by his Equipage to thoſe on the Wall) till many of his Guard falling about him, at length he retired, when Night came on. And the Night having given but ſmall Reſt to the Beſieged, the ſucceeding Day renewed their Sorrows, and Advanced them to the greateſt Extremity. For, whenas the Turrets were broken, and rendred Uſeleſſ; the *Perſians* applied themſelves to Fight upon theſe Mounts they had raiſed near the Walls; to which, when they within oppoſed others, that ſo they might fight on even grounds; one of theſe Mounts, as if it had been with an Earthquake, removed, and fell upon the Wall, bearing it down, and filling up the Ditch without, ſo that it lay in the poſture of a Bridge, or Cauſey, giving large Entrance to the *Perſians*. By this time was the greateſt part of the Garriſon Souldiers either kill'd or diſabled; yet without all fear of Death, Numbers flock'd to make good the Breach, inſomuch that one hundred another; but the Activity and Vigour of the *Perſian* King, being more valued by ſo notable an Advantage, he cauſ'd all his whole Force to Improve it; and now coming to dint of Sword, the Ditch was filled with dead Bodies, and thereby larger Accels made to the Town. No longer could any Reſiſtance be made, but the poor Deſcendants having done as gallantly as any in ſuch a condition could do, running here and there, were ſlaughtered like Sheep, without diſtinction of Sex or Age. Some of them getting together, made What Oppoſition they could, and reſolv'd to ſell their Lives as dear as poſſible; but *Amminius Marcellinus*, who was in Town all this while, and wrote the Story, with two others, afflit by the obſcurity of the Night, eſcaped through a Poſtern, which was not obſerved; and uſing as much Speed as ſuch a caſe required, got to a Place ten Miles diſtant, and thence overcoming many Difficulties, paſſed over the Country to *Euphrates*, which croſſing by a Ferry-Boat, they found out *Urciſmus*, who was now Travelling to *Antioch*. But, to return to *Amida*. *Aſhand*, a *Comes*, and thoſe *Tribunes* by whole Valour and Conduct the Town ſo long held out, were Nail'd to Croſſes. *Jacobus* and *Ceſus*, two of thoſe Officers belonging to the *Magiſter Equitum*, called *Numerarii*, were led away together with the reſt of the Multitude into *Captivity*, being carefully fought out, they were put to the Sword, as well great as little. And now the City being Razed; for that Autumn was ſomething advanced, *Sapor* reſolv'd to return homeward, outwardly rejoicing, and making a ſhew of Triumph; but inwardly, and ſecretly Fretting, for that he had loſt more men himſelf, than he had either taken alive, or killed in any of the late Engagements, as formerly it hapned at *Niſibiſ* and *Singara*; for, before this Town perſh'd on his ſide Thirty thouſands; as was diſcovered by *Dijceſes*, a *Tribune-Notary*, who diſcerned them from thoſe of the other by this Token; that the *Calkaſes* of the *Romans* freely purſued, ſo that after four days they could not be known by the Face; whereas thoſe of the *Perſians*, died like ſo many pieces of Wood, without any moiſture or Corruption appearing, by reaſon of their ſpare Diet, and the great Heat of the Countreys where they had lived.

21. Leaving now *Sapor* to persecute his Retreat, we must return also into the *Western* Parts, and inquire what becomes all this while of *Conjunctius*. As we left, so we find him at *Sirmium*, all the last Winter, till called again into the Field by the Motions of the *Sarmatae Lemnigæ*, or Slaves, whom the Summer before he had caused to change their Dwellings, and remove into other Parts, at a greater distance : and *Ammianus* writes, that he was forced to march, e're Spring was full Ripe, or, as he words it, *Adult* : which, if we Consult the Dates of some Laws made by him at this Time and Place, we must interpret at the later end of *May*. For on the five and twentieth of *March* we find an Edict by him Directed to *Ortus*, the *Præfex* of *Rome*, which is more to be taken notice of, for the Mention it makes of the *Urbicarian* Regions, than out of respect to the Subject and occasion of it; although those Matters of such Antiquity, and concerning that City, be not to be Neglected. There were, as we formerly hinted, Bodies or Companies of Lime-burners, called *Calcarientes*, & *Calces Cultores*, who prepared Lime for

L. i. de Calci
Culturis.
Cod. Theod.
lib. de Offi
Publicis Tit.
de Litibus
l. Cod. Vile
bin. Page

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Chap. I.

Sect. 4. the use of *Rome* and *Constantinople*, and another fort known by the Names of *Venariarii* and *Vetores*, who Conveyed it thither. To the Maintenance of both these forts of Workmen, certain Lands belonged, as by Service, to find them Maintenance: and *Constantin* by this Edict Ordains; That (to clear all Disputes, which "in this case might happen) from all such Lands shall be allowed to the Lime-makers, for every three *Vetres*, or Wain-Load of Lime, an *Amphora* of Wine, and "to the *Veduriarii* the like Quantity, for the Conveyance of two thousand and nine hundred Pounds weight of it. And he declares, that not the Persons, of the "Polksfiers, but the Grounds themselves shall be lyable to this Payment, and more, "over Wills, that three hundred Oxen be given, or allowed to the *Veduriarii*, out of the four Regions. An *Amphora* here is to be taken for a Measure, which contained eight and forty *Sextaria*, each of which held about as much as a *Paris-Pint*, or above our Wine-Quart. We see by this Law, that these Workmen were paid in kind, and not in Money, which was much in Fashion before Gold and Silver came to be so common as now it is. But whereas it is said, that so much Wine should be afforded to them out of these Lands, it is not to be understood, that the Possessors thereof paid it immediately to those Workmen; but there was a publick Office for Receipt of this Wine, called *Arca Vinaria*, which was under the Charge of the *Præfekt* of the City, and particularly under this *Orfius*, who now held the Place, as *Symmachus*, one of his Successors, and his Son in Law signifies, upon no pleasing Occasion. For, after *Orfius* his Death, his Children were by the Treasury troubled about the Accounts of this Receipt, as *Symmachus* grievously Complains, in though all had been issued out that he had received; and what was behind was in Solvent hands. And as for his two Daughters, they had not medled at all with what he left; so poor he died. Under the same *Præfekt* there was another Officer or Accountant called *Rationalis Vinorum*: but as for what *Lampridius* writes of a Body or Company of *Vinarij*, instituted by the Emperor *Alexander Severus*, and the *Tribuneship* of the *Forum Vinarium*, of which *Symmachus* also makes Mention, and cited by *Juretus*, I rather think them to have relation to the publick Sale of Wines, and not to these that were paid in kind; except the *Præfekt* or under-Officers sold these Wines, and gave the Price to the Workmen. This Law being directed to the *Præfekt* of *Rome*, by the four Regions can nothing be understood, but the four *Urbicarian* Regions, of which first mention is made in this *Consulship*, of *Eusebius* and *Hypatius*, (upon what Occasion we have already said) and fully observed by the Learned *Gothofred*.

And regulates
Matters about
Prators.

learned *Gottfried*.
 82. At this time further Contentis happened about the Office of *Pretor*, which being to Troublefome, and especially Chargeable, as we have often said, all Forts of Persons endeavoured to thrust it off, both from themselves and their Friends. And upon this Account Disputes arose about the manner of Elections; and such as had been *Pro-consuls* and *Vicars*, pretended, that they were above the Office. To Determine these and other Points, *Confantius* Directed his Resolution to the Senate (divided now in the Code into two Laws) bearing Date from *Sirmium*, on the two and twentieth of *May*, whereby he declares his Pleasure, That only such have Voices in the Election of *Pretors*, as had been *Pretors* themselves; such being best Judges (from their own Experience of the Office), who were fit, and rich enough to manage it. In the next Place he will have the common Course in all such matter to take Effect; viz. That the major part should have the decisive Power. Then in a pompous kind of stile, he uses several Arguments to convince them, that the Employment was no whit below such as had been, either *Proconsuls* or *Vicars*; that telling them, that they could not but remember, nay, he believes, never could forget, how *Facundus* the *Ex-Proconsul*, and *Arsenius* the *Ex-Vicar*, had flourished with the Ensignes of the *Pretorship*; neither of them having thought it too mean, or an Eclipse to his former Dignity. By this it appears, that these two Persons were very eminent for their Worth, at this time, though otherwise we hear nothing of them; he demanding what can be more Illustrious than their Examples: and saying that others ought by them to be admonished, though indeed *Proconsuls* and *Vicars* were reckoned of great Dignity, as being the first in the Rank of *Senators*: But in the last Place, he, who ever much favoured the Senate, gives it full and absolute Power of Nomination and Election, according to these Rules, without any Recourse had to himself, or the *Præfatus Pretorio*, as was wont to be practised in Matters of great Moment; and that so much toward the *Præfect*, that it was feasonable to put some Restraint to his Power. And indeed the Custom was, that the *Præfect* of the City (who as hath been often said) was the *Præful* of the Senate (the word *Præful* was very proper, though applied to Lay-Persons

L. L. 14. 15.
 de Pretoribus
 c. 1. Cod. Tit.
 l. 6. Tit. 4.

Quid enim illi
 dignitas his
 præfatus
 vult Exemplum
 debet pro
 flores illas,
 et iustas illas
 et commensur
 et.

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3 E 9

Symmach.
lib. 9. Ep. 7.
121. & lib. 10
Ep. 42. 47.
& vide Jacobi
Miscel. in Ep.

L. L. 14, 15.
de Prætoribus.
C. Cod. 7b.
lib. 6. Tit. 4.

Quid enim illi
struus his repe-
ritur Exemplum
Debuerat pro
flore ista, a
buerat alios et
am commover

Sect. 4.

sons in those Times) had recourse to the Emperour, about the choice of *Prætors*. We shall only, as to this Law, further add, that therein he gives but the Title of *Clarissimus* to the *Præfectus Prætorio*. For, in *Constantius* his Time, that of *Illustrius* was not received yet, in that distinct and proper Sense, as we find it applied in the *Notitia*; though about this time *Illustrius* and *Clarissimus*, as by several Instances might be proved, were joyned together in the Title of one and the same Person.

He removes from *Sirmium* to *Singidunum*, and so against the *Sarmatæ*.

Whom he admits to his Speech, and thereby endangers his Person.

For which the *Limigantes* pay dear.

83. From *Sirmium*, *Constantius* removed to *Singidunum*, a City of the *First Mæsia*; for there we find him by the Subscription and Date of another Edict, of the Eighth of June, with which we think not fit to trouble the Reader. For, he was perpetually Alarm'd at *Sirmium*, with fresh Reports, how the *Limigantes*, not Content with the Territories Assigned them, began to make Excursions into those next the Borders, and would create him more work if not prevented. Gathering therefore his Men together, he Resolved to make as much speed as he could, and the rather, because he doubted not but the Army would think it, the sooner they were in the Field, the better, they Fared so well the last Summer. And *Anatolius*, being *Præfectus Prætorio of Illyricum*, was before-hand with them in Provisions, without any Disadvantage to any Man. He Marched first into *Valeria*, (formerly counted part of *Pannonia*, but so distinguished and named in Honour of *Valeria*, the Daughter of *Dioclesian*) and from the Banks of *Ister*, observing the Motions of the *Barbarians*, sent, and demanded of them the Reason why they kept not themselves Quiet at home, but Roved up and down the Borders, contrary to what had been enjoined them. Not knowing what to say, Fear made them Lye, and after Frivolous Excuses, they begg'd that he would give them leave to come over the River to him, and that he would please to Assign them some place to Inhabit within the *Roman* Pale; that they might betake themselves to Rest, and be able to pay him Tribute. At this he was exceeding Glad, as hoping he had gone through a Business of so much Difficulty without Blood or Sweat, and readily admitted them; being Flattered in his Expectation by his Attendants, who told him, how, by this means, all those Quarters being in Repose, he would have a Supply of Fresh Souldiers constantly from that People; for the Provincials, they said, would willingly Exchange Gold for *Tronæ*; which sort of Hope sometimes Endamaged the Affairs of the Empire. A Line is drawn near a place called *Acuninum*, and a Mount raised instead of a Tribunal; near to which some *Legionary* Souldiers were placed in Boats upon the River, to come upon the Backs of the *Limigantes*, in case they should prove Tumultuous. For a time, they stood with bended Bodies, in an Humble Posture, but bearing another kind of Mind than they made shew of: for, when the Emperour from the Mount was about to speak mildly to them, as those that for the time to come would be Tractable and Obedient; one of them, in a Furious Mood, threw his shoe at him, and cried *Marha, Marha*, which with them was the Watch-word for Battel; and with that they all made, with a great Noise, and in a Menacing manner, towards him. He seeing Darts fly, and Swords drawn, in great fear leaped down, and pressing amongst the *Barbarians*, and his own men now Thronging together, got on Horseback, and made his Escape; some of those about him, who laboured to keep off the Multitude, being trodden to Death in the Croud; and his Imperial Chair, with the Cloth of Gold Cushion, became fair Booty to those that could first catch them, though it cost them dear.

84. For, the Army hearing the Prince was in Danger, in great Indignation and Rage, though but half Arm'd, rushed into the Place, to revenge a thing so Ignominious both to the Empire and themselves; and breaking with Violence into the Croud, they hewed and bore down all before them, without any Difference. There was no place now left for Intreaties; but those that begg'd Pardon, as well as such as were pertinaciously resolv'd, perished alike; and when they were all either kill'd or dispersed, (which were but few) some of the *Romans* were found Dead amongst them, either trodden to death, or slain by the Enemy, at their first Onset; as was *Cella*, Tribune of the *Scutarii*, who had cast himself into the thickest of them. The Infolence of these *Limigantes* thus punished, and all things settled upon the Limits, as Convenience required, *Constantius* returned to *Sirmium*, where, getting all things in readines, as the time would permit, he set forward for *Constantinople*, Resolving for the *East*, there to Heal the Wound lately received at *Amida*, and by a new Supply of larger Forces, to give a check to the Ambition of *Sapor*, who was resolved to leave *Mesopotamia* at his back, and pierce further into the Upper Provinces. But while he prepared to wage War with an outward Enemy, he

forgot

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L28. de Apollonienibus, Cod. Th.

Sect. 4.

forgot not to raise Civil Storms, as it were, at Home (so *Amianus* terms it) against such, as the Insinuations of *Paul* the *Notary*, that most covetous, and cruel Informer, and his own Jealousie represented as Criminals in an higher degree of Enmity. There was a Fam'd Oracle at *Abydos*, a Town of *Tiebbais*, of an Idol called *Befas*, to which, many flocking from the *Eastern* Parts, for Answers to their several Questions, it sometimes happened, that both the Question and Answer were left in Writing in the Idol's Temple. Some of these were maliciously sent to him, which presently Discomposed him, and in this Fit of Jealousie, *Paul* is sent away into the *East*, with whom is joyned *Modestus*, the *Come* there, a man fit for the purpose: whereas *Hermogenes Ponticus*, the *Præfectus Prætorio*, was far of another Temper, and no whit proper for such an Employment. *Paul* so diligently plied his Bufiles, that some were condemned to Banishment, and others to Death, he making his Markets out of their Estates, for which reason he so belaboured himself, that, if any Person had any Charms against a Quartan Ague, or any other Distemper, hung about his Neck, or by Night passed through the Monuments of the Dead, he was presently Accused, and Condemned as a Necromancer and Enchanter, as if he had Consulted *Dodona's* Grove, or the once fam'd Oracle at *Delfos*, against the Life of the Emperour. But, while Innocent Persons were thus Tormented, as desirous to know what the issue of things present would be, a Real portentous Prodigy happened at *Daphne*, that Pleasant and Renowned Suburb of *Antioch*, which *Amianus* concludes, did signify, that the Commonwealth was going to fall into an Ugly condition or state, which, however, perceiving his Meaning to aim at a year or two hence, we are apt to believe was shortly to be fulfilled; a Monster was there born with two Mouths, two Teeth, and a Beard, four Eyes, and two very short Ears. We will not say, that this fore-shewed one to Succeed next in the Empire, that had two Mouths, in a very short time, being a Reader in a Church, first, a Professor of our Religion, and then an earnest Declamer against it, and a Persecutor of it; one, that in a short time look'd two several ways, as if he had two Stories of Eyes, and began to purpose to shew another sort of Teeth too, and, had he Lived, would have lore bitten; withal wearing such a Beard, that *Amianus* himself, though no small Friend, confesses it was Deformed, that it rendered him Ridiculous, and justly Expofed him to the Jeers and Affronts, even of those in *Antioch*, and about *Daphne*, where this Monster was born (as we shall shortly see) and where this Person was as much Gazed at, as it, for that Deformity, and other strange Sights he there procured to be seen, but had no Ears to receive any Advice, especially as to Religion. We put no stress upon these things, but to Comply with our Historian, whose own Relation, for the most part, or altogether makes good our scarcely serious, Interpretation.

Constantius, out of Jealousie, Cruel against several Persons.

The *Isauri* make Depredations, and are Quiered by *Laurentius*.

85. About this time, the *Isauri*, (a People of *Asia Minor*, Bordering upon *Cilicia*, of whom heretofore) having been long Quiet, began to return to their wonted, Restless courses; and falling down from the Mountains, Rocks and Thickets (which so sheltered them, that the Souldiers that lay thereabouts in Garrison, or in the *Prætenture*, could do little Execution upon them) much Distressed the Neighbouring Provinces by their Thefts and Depredations. To Restrain them, either by Fair means, or by Force, was sent one *Laurentius*, with the Dignity of *Come*, a Prudent, and Civil Person, who, with such Discretion managed his Matters, that he wrought upon them, rather by Threats, than any harsher Effects; and continuing there some time, reduced the state of those Parts into so much Quiet and Order, that nothing justly could be Blamed. But by this time *Ursicinus*, after the Destruction of *Amida*, was come to Court, whither he had been sent for (as we said) to Succeed *Barbatio*, as *Magister Pedum Præfentialis*; for so it was pretended. He was no sooner Arrived, but his Adventures began to whisper, and then to speak out, of Heinous things done by him; to which *Constantius*, giving too much credit, committed the Hearing of the Matter to *Arbeto*, and *Florentius*, the *Magister Officiorum*, with Charge to inquire how *Amida* came to be destroyed. They could not for shame but reject such Allegations, as carried sufficient marks of Falshood with them; neither, for fear of offending *Ursicinus*, the *Præpositus Cubiculi*, durst they lay the Load, as they ought to have done, upon the Base Cowardise of *Sabinianus*; but pursued trifling Matters, and foreign to the Business. Hereat he, who was most concerned, was so Enraged, that he openly said, Though the Emperour was pleased to slight it, yet the Weight and Consequence of the thing before them was such, that it could not but be Heard and Punished by the Prince himself, to whom he could easily foretell, that though he concerned himself so much about what had happened at *Amida*, after that manner which he truly related; so long as he was governed by *Eunuchs*, in the manner he was at present, though he himself went in Person with an Army the next Spring,

yet

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Pronounced in the Roman Court as follows.

Amianus lib. 20.

Señ. 4. yet should he not be able to Protect *Mesopotamia*. This was told to *Constantius*, and many things more added, with a Malicious Interpretation; wherewith he was so extraordinarily incited, that, breaking off the Inquisition, and not permitting such things to be laid open, as had been kept from his knowledge, he put him out of his Place, and Commanded him to Retire, preferring to it one *Agilo*, by a great Leap from being *Tribune* of those called *Gentiles Scutarii*. About the same time happened a great Eclipse of the Sun, seen in the East, where, from Morning till Noon, it was so dark that many Stars appeared.

Constantius, through the Malicious practices of *Eusebius*, turned out of his Place.

Constantius sends for part of the Army from *Julian*.

86. But while *Constantius* was preparing to go against the *Persians*, he was, as we have it, from the two *Pagan* Writers, *Ammianus* and *Zosimus*, much Troubled in his Mind, to hear the Fame of his Cousin *Julian* spread so far and wide, who had done such wonderful things in *Gall*, and against the *Almans*. Grievously nettled, you must know, and fearing his Renown would increase, at the Instigation of *Florentinus*, the *Præfekt*, he dispatched away *Decentius* the *Tribune* and *Notary*, to bring from him the *Auxiliary Heruli*, and *Batavi*, the *Penulantes*, and *Cæla*, with three hundred more to be picked out of the other *Legions*, and that with all Speed, that they might be ready by the Spring, to set forward with the Army against the *Persians*. *Julian*, not perceiving the Design, or dissembling it (as knowing it his Duty to obey) made no Opposition; yet could not forbear to say, that it was hard, that those should be sent Eastward, who had left their Dwellings beyond the *Rhine*, on Condition that they should not be removed further than the *Alpes*; for it was to be feared, that the *Barbarians* coming in hitherto cheerfully to the Service, upon hearing of this, would, for the time to come, be very backward. But his Complaint was in vain, for the *Tribune* not at all regarding what he said, but following fully his Instructions, with a Chosen Party he had picked out here and there, resolved to go his way. *Cæsar* was much troubled about the rest that were to be sent; on the one side, considering how much the Enemy might be thereupon encouraged in his Natural, and wonted Ferity; and on the other, that the Emperor's Orders must be obeyed, and the Absence of the *Magister Equitum* making him to distrust something, he wrote to the *Præfekt* to come to him, who was gone away to *Vienna* (now *Vienne* in *Dauphiné*) under Pretence of pursuing his Charge, as to Provisions for the Army; but indeed, on Purpose to withdraw himself from it, having given Advice, that these Forces should be removed from the Defence of *Gall*, which had done such Service, and were so terrible to the *Barbarians*. *Julian* pressed him to make haste to Assist the State, which now wanted his Advice; urging, that the *Præfekt*, in doubtful Junctures of time, ought not to be absent from the General, and that if he would not assist him, he would devote himself of the Purple; concluding, it was more glorious for him to venture being put to Death, than that the Ruin of the Provinces should be ascribed to him. However, the *Præfekt* obstinately refused to come, and *Lupicinus* the *Magister Equitum*, being sent away with some of the Forces, *Julian* knew not what Course to take; but at last resolved, it was best to withdraw the Remainder out of their Quarters, and put them into the Road. This being once known abroad, a Libel was dropped near the Standard of the *Penulantes*, amongst other Seditious Passages containing; that they were as Criminals, to be Banished to the utmost Parts of the Earth; and now their Relations should again become Slaves to the *Almans*, from whom they had delivered them by so many bloody Battels.

A Libel here-upon spread abroad.

87. Word hereof being brought to *Cæsar's* Court; when he considered the ground of their Complaint, he ordered them to carry their Families with them into the East, (in what Sense a Family is to be taken in such Cases, we have told the Reader already out of the Laws) permitting them the use of that sort of the *Curfus Publicus*, called *Clabularis*, for that Purpose. And when it was doubted what way they should go, at the Suggestion of *Decentius*, it was resolved it should be by *Paris* (which *Zosimus* calls a little Town of Germany) where *Julian* still lay, being not yet removed out of his Winter-Quarters. Upon their Approach he met them in the *Suburbs*, and according to his Custom, fell on commending such of them as he knew, and putting them in mind of those gallant Things they had formerly done, gently admonished them to go cheerfully to the Emperor, where they should each be preferred, according to what they had deserved. Besides this, he invited the Principal Officers to a Feast, and asked them what he could do for them, who being wonderfully taken with so great Kindness, were very melancholy to think of their Journey, as well because thereby, through their hard Fortune they must be deprived of so sweet a Commander, as banished from the Places of their Nativities; and so in great Grief they went to their Lodgings. And now the Reader may easily guess

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ἰσχυρὰ δὲ ἐν τῇ Περσίᾳ (ἔπειτα πωλεῖται δὲ οὗτος ὁ ἀνὴρ) ἀποκρίσας τῷ ἱππ. 1. 3.

Señ. 4. guess what this great Dearth, on both sides, would come to. Their Sorrow would not let them rest, till Morning, but in the Night they fell into great and heavy Lamentations, each as his particular Concernments pressed him; besides that General and Paramount one, of leaving so gracious a Prince; and making their Cases known one to another, their Anger, as Coales, when laid together, into a Flame, brake forth into open Rage: Their Tongues now have the strength to move their hands, and their Hands to grasp and brandish their Swords. To the Palace they march in a menacing manner, and besetting it round, so that none could escape; with a horrid Noise salute *Julian* by the Title of *Augustus*, and vehemently urge him to come forth to them. For all their Haste he made them stay till it was Light, but then he was forced to come down. At the Sight of him, with a Reiterated Shout, and an unanimous and Resolute Consent, they again called him *Augustus*; to whom he answered, *Nolo Imperare*, as Seriously and Cordially, as ever any said *Nolo Episcopare* in another Case. Nay our Author tells us, that All, Some, and every One (and surely they were a good many) of them, he resolutely Opposed; one while shewing that he was displeased, another while strutting on his Hands, intreating, nay beseeching them, that after so many and happy Victories, they would not do any unhandsome thing, nor by their unreasonable Rashness give Occasion to further Troubles.

The Souldiers mutiny, and Salute *Julian* Emperor.

He would decline it, but they compell him to accept the Title.

88. Having brought them to some Quiet, he then gently paid them to content themselves, and without any Innovation or Disturbance, they should have what they so much desired: for seeing they were so unwilling to leave their own Country, and go into remote Parts, they should return to it again, and he would take upon him to argue it with the Emperor, who was a most prudent Person, and capable of Reason. Now can we imagine these men of *Mars* and *Metal* to have Hearts, as hard and invulnerable, as the Steel, or Iron they wore; that so sweet so obliging Words could have no Impression on them, but to leave them merely selfish and ingratul; for one good Turn, doubtless, requires another. No, they would not endure he should cast such a Blot upon them; but unanimously, and with the greatest Earnestness imaginable, nay with reproachful Language, mixt, as if they would not be so used, they compelled him to receive the *Imperial Title*. Then being lift on high, upon the Target of a Foot-Souldier, and Silence being made, he was declared *Augustus*, and now was bid to produce his Diadem, but he denied that ever he had any; whereupon they asked for that which his Wife wore about her Head, or Neck. For the Reader must know, that generally a Diadem in those Times, was but a thing like a Fillet, or a Bracelet studded with Gold, or Pearl, or some such like things. But he told them, that it was neither seemly, nor lucky, to have his Beginnings graced with any thing belonging to a Woman's Ornaments (he would not for Mariners take that Dress, which in his Tale of the *Cæsar* he so lovingly bestowed upon his Uncle *Constantine*) and therefore they took themselves to his Hoise, to see if amongst his Trappings and Furniture they might find something to resemble that Ensign of Sovereign Authority. But he earnestly affirmed this to be also unseemly, and so without any more to do, one *Maurus*, who was afterward preferred to the Dignity of *Comes*, and ill behaved himself in a Matter of War, though at present but one of the *Hastati*, took a Bracelet, or Chain he wore, and confidently put it about his Head. And thus *Julian*, driven to it by utmost Necessity, and considering, that he had no way to shun the present Danger if he had persevered in his Refusal, was forced to submit, and promised them all five *Aurei*, and a pound of Silver.

89. The thing being over, he was Distracted with no less Care than formerly, so that he neither wore the Diadem, nor ventured abroad, nor minded any of the Publick Concernments, however pressing; but moved himself up close in his Lodgings, frightened by the Variety of these sad Accidents. Hereupon a certain Decurio of the Palace (a Place of Dignity *Ammianus* tells us,) ran suddenly to the Camps of the *Penulantes*, and *Cæla*, and roared out; that a dreadful thing had happened; for he, who by their Will and Resolution had been declared *Augustus* the day before, was now privily murdered. The Souldiers enraged at that Word, (as true Stories, or Fables are apt equally to move them) with their Swords drawn, or other Arms, ran furiously to the Court, and with the Noise, the *Guard*, *Tribunes* and the *Comes Domesticorum* himself was frighted away, as from present Death, not being able to imagine what they should mean. At length, seeing no Body to oppose them, they stooped both their Couris, and Fury; and being then demanded what the Matter was, would scarcely be satisfied concerning the Safety of their Emperor, till, admitted into the Consistory, they saw him gloriously set out with the *Imperial Habit*.

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ἢ τοις μυστικοῖς ἐπιστάταις, ὁ βασιλεὺς.

Act. 4. Habit. But upon Report of what had passed at *Paris*; some of those that had been sent away toward the Emperor, under Conduct of *Sintula*, the Tribune of *Julian's* Stable, returned thither; and now it being time to show himself publicly, like an Emperor indeed, all were ordered to meet together in the Field, the following Day. Against the time a more stately Tribunal was erected, which he mounted with greater Pomp, Encompas'd with the Eagles and Banners, and incircled with multitudes of armed men. After a little Pause, to take a view of their Countenances, and accordingly to Frame his Speech, when he saw them cheerful and pleas'd, He put them in mind, how from the time that being very young, he had in show worn the Purple, and by Heavenly direction been committed to their Protection, he never had been driven from his Purpose of a good Life, being present with them in all their Labours, and assisting them to humble such proud *Barbarians*, as were left, and survived the Slaughters of innumerable Thousands of their Companions, and the Destruction of their Cities. He added, that it was needful to relate, how often in the Cold and hard Winter, when Wars are wont to cease, both by Sea and Land; they and he together had defeated those *Almans*, which at other times had been invincible. But that was by no means to be pass'd over in Silence, that most Blessed Day, which brought in a manner perpetual Liberty to the *Galls*, when near *Argentoratum*, while he ran up and down where the Darts flew the thickest, they by the Strength of their Valour, and Military Experience, when whole Torrents of Enemies, as it were, fell with Violence upon them, either destroyed them with the Sword, or forced them into the River, there to Perish, few of themselves being left, whose Exequies they performed, rather by Praise and Commendation than by Mourning. Having done so many, and so great things, he believed that Posterity (And that through all Nations) would talk of their well-deserving of the Common-wealth, if they would but defend to the utmost, him whom they had advanced to an higher Degree of Majesty, if any thing otherwise than well should happen. And for preserving of good Order, that valiant Men might not go unrewarded, nor Secret Ambition seize upon the Honour that was due to Merit, with their Council, and Approbation, he was resolv'd that neither any Civil, nor Military Officer, other-wise than as Deserv'd required, should rise to any higher Preferment; but such be disgraced, as should but move in behalf of any that was not deserving. This was much applauded by the ordinary Souldiers; who having for all his Service hitherto received, neither Preferment, nor any other Reward; was encouraged to hope for better things, and testified the same by striking his Lance upon his Target. And now the *Celsæ* and *Petulantæ* intreated for some *Athurians*, that they might be sent upon some Employments designed them; which he would not grant, and they went away neither offended nor sorry. But in Reference to what *Julian* had accepted, *Ammianus* further tells us that he told some of his intimate Friends, how that the Night before he was declared Emperor, something appeared to him, in shape like the Publick *Genius*, and in a chiding manner told him; that formerly, though privately, he had watch'd at his Door, having a great desire to increase his Dignity, and had sometimes gone away, as being rejected; and if now he would not entertain him, the Multitude concurring in their Opinion, he would depart sorrowfully, as one put away; but bid him think seriously of it, that he would dwell no longer with him.

90. Thus merrily went on Matters in *Gall*, when in the mean time the *Eastern* Provinces were in a far different Humour. For there the Cruel *Sapor*, being encouraged by the Advice and Assistance of two Fugitives (*Antoninus*, whom we spake of before, and one *Crangasius*, who had fled to his Wife, that was taken Prisoner in a Castle) burnt still with a vehement desire of Conquering *Mesopotamia*, while *Constantius* was far distant with his Army; and passing over *Tigris*, began his Work, by laying Siege to *Singara*, a City on an Hill of that Name, and near that River. Those that were in it were very Courageous, esteeming it every way very well provided, and upon knowledge of his coming, stood ready to receive him on the Walls. At first he Attack'd them with fair words, in which he spent one whole day, to give them time to consider; but that not prevailing, by that time it was light the next Morning, he set up his Bloody Flag, and began the Assault; they as valiantly Defended it, and several days pass'd in this manner, many being Kill'd and Wounded on both sides; till at last, by a Tryal of many Engines, one Ram did such Execution against a square Tower, that it made a great Breach therein; and though they wrought very industriously to make up the place again; yet the Mortar being Green, and the Stones as yet loose, it again continually Battered down

His Speech to them in Commendation of himself.

Sapor again passeth *Tigris*, and Besieges *Singara*.

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Seet. 4. down their Work, and at last made such a Passage as gave the *Persians* a large Entrance into the Town; which being taken, a very few were kill'd in the Hurry, and the rest were sent away, by the Command of *Sapor*, to the farthest Parts of *Persia*. The Garrison consisted of two Legions, viz. the *Prima Flavia*, and the *Prima Parthica*, besides numerous Inhabitants, and a Party of Horse, taken in upon the sudden Occasion, who all, with their hands bound behind them, were led away into Captivity, there being none to rescue them. For the greater part of the Army lay, for the Defence of *Nisibis*, at a great distance, and neither in old time could any Relieve *Singara*, when in danger, there was such want of Water in the Country about it; so that though it was at first Built to curb the sudden Motions of the Enemy, yet it brought more Damage than Advantage to the *Romans*, being several times taken, with the Loss of them that kept it. This Town being Razed, *Sapor* very prudently thinned *Nisibis*, remembering how ill he had fared formerly there, but turned to the right hand toward *Bezanthe* (more anciently called *Phenicia*) a strong Fort placed on an Hill, indifferent high, and bending toward the Banks of *Tigris*, where the Ground was low, and less Defensible, Fortified by a double Work, and Manned by three Legions, viz. the *Secunda Flavia*, the *Secunda Armeniaca*, and *Parthica Secunda*, besides many Archers of the *Zabdicetis*; in the Territories of whom, then living in Obedience to the *Roman* Empire, this *Municipium* stood.

91. *Sapor*, after his manner, first Summoning it, advis'd them to be Prudent, and come forth, and submit to him, the Conquerour of Nations; and a Day and a Night being given them to consider, when this would not do, by that time it was light the next day, he fell with all Violence upon the Wall; but found such Resistance, that on the third he, as well as the Besieged, was glad to think of one day's Respite. Now came to him out of the Town the Bishop of that *Diecefe*, who, by all the Rhetorick he had, could not persuade him to Raise his Siege; but on the contrary, rather the more encouraged, he swore he would not depart, till he had taken it. A Slander was raised on the Bishop, as if he should discover to him the Weakness of the Town, because afterward he set his Engines to the most rotten Place in all the Wall. But here was again such vigorous Opposition, both by those Engines called *Baliste*, and also by the other termed *Scorpions*, whereof the one cast Arrows, and the other Stones; Moreover by the tumbling down of Stones, casting Pitch, and *Bitumen* by the Hand, that nothing could have prevailed with the *Persians* to persist in the Enterprize, but the violent Resolution of their King, who they knew would be enraged, if the City was not his before Winter. This drove them on without any Regard had to Death, or Torment, which in so diverse Shapes presented themselves to their View; and it happened that one Ram, which was covered with a Raw Hide, so as no Fire could hurt it, creeping by Degrees, battered the Wall with such Violence, that down it fell, and in it's Fall killed many of those within. At this Breach did the *Persians* enter; and now great Slaughter was made on both sides: for the Defendants still fought, and held out, till, borne down by Numbers, they fell merely by the Sword of the too powerful Enemy. *Sapor*, overjoyed at the taking of this Place, which was of such Moment for his Design, repaired the Wall, and put in a strong Garrison, well victualled, left the *Romans* learning of what Importance 'twas, should attempt to retake it. Then went he to a Fort called *Utra*, very ancient, as imagined to be built by *Alexander* the Great, in the utmost Quarter of *Mesopotamia*, of great Strength, and Inaccessible. This by all Art imaginable he endeavour'd to be master of, but neither words of both forts, nor Force prevailing, he broke up his Siege and departed.

And takes in like manner.

But is repulsed at *Utra*.

Constantius prepares against him for the following year.

92. So went Matters betwixt *Tigris* and *Euphrates*, the News whereof were brought to *Constantius*, then lying at *Constantinople*, or thereabout; for thither he was come out of *Myfia*, from the Expedition against the *Limigantes*; having in the Month of *October* reached the City of *Nicea* in *Thrace*, as he travelled thither. Being now much concerned about the Progress made by the *Persian* in the *Eastern* Parts, with all Industry he spent the Winter in Preparations for a vigorous Resistance. He raised new Forces; filled up the Vacancies in the Legions; abundantly furnished them with Arms; and for a further Supply, procur'd as many *Scythians* as he could for Love, or Money. For Conveyance of all these men, and Arms, there must needs be great Need of the *Cursus Publicus*, or Publick Carriage; and therefore about this time we find a Constitution (now part'd in the Code of *Theodosius* into three several Laws) directed to the *Agentes in Rebus*, out of the Body or Company of whom, as we said, only he would have the *Christi*, or those that managed it to be chosen. Now although *Gothofred* would have

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Kings upon the Borders of *Germany*, where all these Exploits, his and theirs, were done. Then were they all commanded to take the Oath of Fidelity to him; which they did, putting their Swords to their Necks, in words conceived with direful Excerations, thereby engaging to endure all Extremities for him, if need should be, even to Death it self. And this was followed by all the Officers, except *Nebridius*, whom being prefer'd to be *Præfatus Prætorio* by *Constantius*, he had admitted to the Discharge of that Employment. He alone refused, both stoutly and constantly; affirming, that he could not have the Conscience to bind himself by any Oath against the Emperour, to whom he was obliged by many Kindnesses. The Souldiers perceiving this, would have killed him; but *Julian*, conscious possibly of the gallant Fidelity and Resolution of the man, was so just, as by casting over him his Coat, to protect him from their Violence. And afterward, when in the Palace, as he came by, he lay prostrate, and desired him to give him his hand, as a Pledge of his Security; he asked him what he should reserve for his Friends, if he suffered him to touch it; but bid him go in Safety whither he pleased. Whereupon he went away to his own House in *Tuscia*, and *Julian* gave the Signal for marching into *Pannonia*, rashly committing himself to doubtful Fortune, as his Friend *Ammianus* makes bold to say.

And gives the
Signal for
marching.

107. But let us see how *Constantius*, this Winter, behaves himself at *Antioch*, whether he have reason to say so much of his own Prudence and other Virtues. It's to be fear'd, he neither was Guilty of so Famous Exploits, nor so Wise, if he had done any thing (as perhaps he could say some little he had performed against the *Sarmatians*) as to make it so Evident and known by his Rhetorick. He had not so great a Proficient in Study, nor so long worn the *Pallium*, as to say, *What's our Power, except Men know it? And Knowledge what's unless we show it.* Yet he had, at this time, the Hap to fumble upon something, which *Ammianus* cannot Reprehend. Though he was no Famous Captain, nor Conquerour of Nations and Kings, (for indeed upon the Borders of the *Rhine*, within *Germany*, there appears, within a little space, to have been more Kings, and consequently more Nations than beyond the *Danube*: all the Sons of Kings being Kings, as should seem by *Vadomarus* and his Brother, as at this day, with them all the Sons of Princes are Princes, and all the Sons of Dukes are Dukes, though not all the Sons of Emperours are Emperours) yet amongst many very Honourable Persons, several *Tribunes* came to Adore him, at his Return out of *Mesopotamia*. There was also *Amphilochius*, who had formerly that Command, and therein serving *Constans*, was more than Suspected to have made Mischiefbetwixt the two Brothers. He crowded in to be admitted to Kiss the Robe amongst the rest; but being known, was rejected and put by. Hereat the Company cried out, that he ought not any longer to Live, for that he was an obstinate Traytor; to which *Constantius* replied, (being milder, *Ammianus* tells you, than he was wont) *Do not so press upon a man, whom I believe to be Guilty, but not manifestly Convinced; but if he be, take notice, that under mine observation he shall be punished by the Doom of his own Conscience, which he will no way be able to deceive;* and so the Matter ended. The day after, were celebrated the *Circensian Games*, and this same *Amphilochius*, as well as others, became a Spectator, just opposite to the Emperour, at a Raile, which upon a great shout, when the Company prest forward to gaze, brake down, and with the fall, though the rest were only slightly hurt, yet he was found dead, with the Rim of his Belly bursten; whereupon *Constantius* as having skill also in Predictions, much rejoiced. About this time he buried his Wife *Eusebia*, a Lady very beautiful; and humble, considering her high Quality. *Ammianus* tells us the excell'd both in the Beauty of her Body, and Manners; in that he rescued *Julian* by her most just Favour, out of Danger, and procured him to be declared *Cæsar*, as he had before related, who I am afraid had forgot what else where he has written concerning her procuring *Julian's* Child to be made away, by the Nurse, and tampering with his Wife to make her miscarry. Now did he take care of *Florentinus*, who upon *Julian's* Usurpation had fled out of *Gall*, preferring him to be *Præfatus Prætorio* of *Illyricum*, in the Place of *Anatolius* lately dead. And with *Taurinus*, who at the same time executed this great Office of *Præfect* in *Italy*, he entered upon the *Consulship* for the ensuing year.

He makes
great Prepa-
rations against
all sorts of Persons
were burthened by
the finding, not only
of Men, but of Money,
Clothes, Arms, Victuals,
Carriage-Beasts and
Engines, as our Writer
tells us, which is
strange, that the Provinces
should furnish all these
things in kind; as to which
we

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we must crave leave here to consult our Law-Books, wherein we find several of these Necessaries imposed upon the Countries, but others never so much as mention'd, but only as they were supplied out of the publick Fabricks. And whereas the *Persian King* could hardly be kept beyond *Tigris*, in the Extremities of Winter; it was imagin'd, as soon as the Weather gave leave he would again make bold with *Mesopotamia*, or the adjoining Provinces. Therefore were Ambassadors sent away to the Kings and Princes, beyond that River, with great Gifts, especially to *Aspacus* and *Meribanes*, Kings of *Armenia* and *Iberia*, who were caressed with more than ordinary Presents, that they might not give any Assistance to the *Persian*. During these Disturbances *Hermogenes* died, and *Helpidius* was made *Præfect* in his Room; a *Paphlagonian* by Birth, of a mean Aspect, and proportionable Elocution; but simple of Disposition, and without any Touch of Cruelty in so high a Degree; so that when *Constantius* commanded him once to put an innocent Person to the Rack, he gently desired him to take away his Power, and brought him to consent, that things of this Nature should be done by other Persons. Now was *Constantius* in a very great Strait, not knowing whether he should go to chastise *Julian*, or march against the *Persians*, who were expected on this side *Euphrates*: but after tedious Debate with his Friends, he was advis'd to put a Period first, either by a League or Victory to the War near at hand, and then march against *Julian*, whom they and he both concluded they should conquer with as much Ease, as any Hunter what he is in chase of. Yet he endeavour'd to strike an universal Terror, where ever he might have Occasion to move his Arms, and in Particular, left *Africk* should be tumultuous, which, upon all occasions afforded great Conveniences to Princes, he sent thither *Gaudentius* the *Notary*, who had been formerly the Spy upon *Julian* in *Gall*, and who upon the account of Enmity to the Adverser Party, would, he knew, do what he could; as well as to Approve himself to the Emperour, who, as all Men concluded, would prove Victorious. Being Arriv'd there, and having communicated some of his Instructions to *Cretio* the *Comes*, and the rest of the Commanders; he made Levies of the best men he could raise out of the two *Mauritania's*, and therewith Defended stoutly the Coasts lying over against *Gall*, and the Parts of *Aquitain*. And herein *Constantius* was not mistaken; for so long as he liv'd, none of his Enemies touch'd that Country, although Forces lay about the Promontory of *Lilybæum*, to pass over thither, upon occasion. Taking Order for these and other Matters, he received Advice from his Officers in the *East*, that the Forces of the *Persians* were United, and their King in the Head of them, drew near to the River *Tigris*, it being utterly uncertain, what Course he would take. Alarm'd with the News, he quitted his Winter-Quarters; and taking along the Horse and the Foot, which he could trust to, by a Bridge of Boats he pass'd *Euphrates*, and went to *Edeffa*, a City well fortified, and abounding with Necessaries, where he staid till by his Scouts, he could discover which way the Enemy mov'd.

Takes care to
secure Africk.

Julian makes
his great Offi-
cers.

His Stratagem
in his March.

The Effects
thereof.

109. In the mean time *Julian* departing from the *Ramaci*, sent *Salustius*, whom he had advanced to the Dignity of *Præfect*, into *Gall*; and he ordered *Germanianus* to discharge the Office of *Nebridius*. Moreover, suspecting *Gnomarius*, as an old Traytor, who had formerly betrayed *Veterianus*, his Princely Master, he promoted *Nevita* to be *Magister Armorum*, and *Jovinus* to the *Questorship*; *Mamertinus* he made his *Magister Largitionum*, and *Dagalaiphus*, his *Comes Domesticorum*, and on others he bestowed Places, as he saw convenient. Being now to pass through the *Martian Woods*, and near the Banks of *Ister*, amongst other things he was afraid, lest for his small Numbers he should be contemptible, and therefore took this Course: He distributed his Army into several Parties; sending some with *Jovinus* and *Jovinus* by the Common Roades of *Italy*, and others, under Conduct of *Nevita*, through the middle of *Rhetia*, that being so spred, they might seem more numerous, and strike a greater Terror: a Course practis'd by *Alexander* the Great, and other skilful and famous Captains. But he gave them seriously in Charge to be very cautious in their March; and by Night to look well to their Watches, lest they should be surpris'd by the Enemy. And he himself passing the *Ister*, and taking another Course, upon Rumours spread abroad of these several Armies; all *Illyricum* was possess'd with a Belief, that he was at hand, with all the Kings, and Nations of *Gall*, being elevated by his many Successes in those Provinces. Whereupon *Taurus*, the *Præfectus Prætorio*, got him away betimes, and by the Use of the *Cursus Publicus*, passing with Speed the *Julian Alps*, took along with him *Florentinus*, his Brother-*Præfect*. But *Lucilianus*, who then commanded the Army in these Quarters, lying at *Sirmium*, upon Report of *Julian's* coming, was resolv'd to get his Men together, and make Head against him. He apprehensive hereof, made all the haste he could, and coming by

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Fait le Chris-
tiano Calvis
deditus quare
non mirandum
est cum Marcel-
linus noster a-
cerbis perfur-
sari eum non
desistat fuit
Melliter ob Vi-
tatem Eximi-
on eivdendos
candis Helpe-
dium proscip-
tibus in orat.
adversus Poly-
dium. Valerius in 126.

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Boat to *Bononia*, a Place distant nineteen Miles from *Sirmium*, dispatched away *Dagalaiphus* with a choise Party of men in the Night (which now was dark, the Moon being in her last Quarter) with Orders to bring him away to him by Force, if he made Resistance. Being surprized in Bed by a Company of Strangers, upon Mention made of *Julian*, as Emperour, he conceived what they meant, and submitted to them, though very unwillingly; and then being set on an Horse that came next to Hand, but just before swelling with the Dignity and Command of *Magister Militum*, was presented to *Julian*, as some mean Prisoner, being scarcely able to recollect himself in so great a Surprize and Terror. But when he saw the Purple offered him to kiss, he took Heart, and giving him the Title of Emperour, told him, he was not well advised, with so small Forces to trust himself in strange Countries; to which the Usurper replied bitterly, that he should keep this prudent Advice for *Constantius*; being admitted to this Favour of the Purple, not as a Councillor, but that he might be put out of his Fear.

He comes to *Sirmium*, having surprized *Zosimus*, who Commanded these Forces there.

Falls foul upon *Constantius* and the Memory of his Uncle.

Two Legions and a Cohort of Archers seize on *Aquileia*.

In the Name of *Constantius*.

110. But he was so far apprehensive, as to understand there was great Need of using Speed in what he was about, the better to supply the other Disadvantage; and away he hasted to *Sirmium*, to which as he approached, multitude of all Sorts came out, as well Souldiers as others, to receive him; and with Lights, Flowers, Lucky Acclamations, and the Titles of *Augustus* and *Lord*, brought him to the Palace. He was much encouraged with so prosperous a Beginning, as that which promised greater things; and hoped, that moved by the Example of this so populous and famous a City, the rest would be induced to submit. The day following he pleased the People by the *Curule Games*; and on the third, being impatient of further Delay, he took in *Succi*, a Place famous for its Situation betwixt the Mountains *Hemus* and *Rhodope*, whereof the one tiseth from the Banks of *Ister*, and the other from the hithermost side of the River *Axiis*. Having placed *Nevia* Governour here, he returned to *Nessus*, a Town of good Note, there to take further Order for his Affairs. Having met at *Sirmium* with one *Victor*, an eminent Historiographer, he preferred him to be *Consularis of Pannonia Secunda*, and honoured him, for his Learning and Sobriety, with a Statue of Brass; who, a good while after, rose to be *Prefect* of the City. Now bearing himself more high than ever, and concluding that *Constantius* would never be brought to any agreement, he wrote to the Senate, a bitter invective against him, wherein he ripped up his Faults, and laboured to bring him in Disgrace with that sort of men. And now he took Confidence further to fall foul upon the Memory of *Constantine*, his Uncle, whom, like a Pagan, he traduced as an Innovator and Disturber of the ancient Laws and Customs. He openly accused him, as being the first that preferred Barbarians to the Dignity of the *Consulship*. But of this he accused him (*Ammianus*, though his good Friend, tells us) both absurdly, and without Consideration. For whereas he should have himself thumbed raw, what he reprehended in others; within a little while he advanced to be *Consul*, one *Mamertinus*, neither in respect of his Life, Splendor, Experience, nor Fame comparable to any, whom *Constantine* had graced with that most eminent Magistracy; but on the contrary a man thallow, a Clown, and (what was least to be borne) cruel in his Office.

111. While he pleas'd himself in driving on his Designs after this sort, he received a Message, which a little interrupted the Contentment he took, in the Consideration of his own Wisdom, and other Endowments. Two of *Constantius* his Legions, and a Cohort of Archers, which he found at *Sirmium*, he had sent away for *Gall*, under pretence of publick Necessity, but indeed because he could not trust them. These marching slowly, and being utterly out of Humour, upon thoughts of the great way they had to march, and the Fierceness of the *Germani*, to which they must be exposed, fell to mutiny, at the Infatigation of one *Nigrinus*, a Tribune of Horse, and born in *Mesopotamia*; and yet they carried the matter very close, till they came to *Aquileia*; but there shewed their Inclinations, seizing on that City, which for it's Situation, Wealth, and the Strength of it's Walls was very considerable; and the Inhabitants, to whom the Name of *Constantius* was very grateful, readily assisted them, so that they fortified the Place all the ways they could, and preparing for Resistance of any Violence which should be offered them; further exciting the Provincials of *Italy*, to follow their Example in standing up for their Emperour as not yet dead, though his Kinsman had made bold already with his Shoes. *Julian* still lying at *Nessus*, having not in the least feared any Enemy at his Back, and hearing this City to have been often attacked, but never demolished, nor so much as yielded, was resolved to omit nothing of Fraud or Flattery, to draw

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draw it over to him, before any greater Mischiefe should follow. Therefore he ordered *Jovinus*, the *Magister Equitum*, who over the Alps was come into *Noricum*, to return with all Speed thither; and that there might be a sufficient Supply of men, he commanded all the Troops that came that way, in their March Eastward, there to be stopped. Not long after it was, that he received the welcome News of *Constantius* his Death, and thereupon passing through *Thrace*, he removed to *Constantinople*; and being often told, that what had happened at *Aquileia*, was not much now to be fear'd; he removed *Jovinus* from that Service, to another, he thought more proper; and ordered *Immo* with other Captains to perform it in his Room. Now was Siege laid to *Aquileia*, which it was in Council resolv'd should first be summoned, but the Garrison was too obstinate to be won with fair Words, or Threats either. Hereupon they endeavoured to undermine the Wall, and vigorously attacked the City; but at this first Onset were beaten off, and foiled. This not Succeeding, and there being none found skilful enough to manage Rams, or other Engines of Battery, they betook themselves to this Device, of planting wooden Turrets upon Boats, joyned together, which lay on the River *Natisio*, running by the City, which being higher than the Fortifications of the Town, they hoped that thence with their missile Weapons, they should do great Execution; and besides the Men they placed on the Top, others they bestowed within the Body of these Towers; who issuing forth, as they saw Occasion, by the Bridges they made for this Purpose, might easily Land, and while the Defendants were diverted by them above, attacke and scale the Walls; but the Device, though comparable to those of the Ancients, in the Opinion of *Ammianus*, could not take any Effect, by Reason that the Besieged so plied these Turrets with Fire and Combustible Matter, that they disabled the Engines, killed those that stood on the Top of them, for the most Part, and caused the other below to shift for themselves; but most Perished by the great Stones cast upon them.

112. This done, they gave themselves to rest on both sides, for some time; but afterwards, though the Besiegers had most Reason to be discouraged, yet renewed they the Assault. Some made their Approaches with their Targets on their Heads, others carried scaling Ladders on their Shoulders, and hasted to come to the Walls, which ere they could do, many of them miscarried in the Showers of Arrows that flew from the Town. Some laboured to break in Pieces the Iron Hinges of the Gates, and were either scalded by burning Pitch, or knocked on the head with Stones; and others, endeavouring to pass the Trenches, were killed, or wounded by such as sallied out through the Posterns, to whom the Line drawn before the Walls, gave good Convenience, both for lying in Ambush, and safe Retreat. Though the Defendants excelled them in the Arts of War; yet did the Besiegers, who were men chosen out of many Companies for this Purpose, first exceedingly, that they should be so long about their Work; and often coasted the Town, to see if any Force or Device would prevail. But at length they were convinced, that the Difficulties were such, as they were not able to overcome, and therefore they began to slacken their Siege, and wait the adjacent Countrey. Yet they thought they might, by want of Water, bring them to such Extremity as to force them to yield. And for that Purpose they first cut all the *Aqueducts*; that served the City, which not having that Effect they imagined, by great Labour they drew the River away from the Walls, though still to little Purpose; for they within contented themselves with the Water they found in Wells, and lived very sparingly, as resolv'd to hold out. And so long they held, till *Agile*, the *Magister Peditum*, was sent by *Julian* from *Constantinople* to acquaint them with the Death of *Constantius*. At first they would not believe, but rejected him with reproachful Words; but upon Promise of Safety, being alone permitted to approach the City; he so far satisfied them, that they opened their Gates, came out, and received him; and purging themselves, laid all the Blame upon *Nigrinus*, whom with a few others they delivered up; desiring that by the Punishment of them, might be expiated the Crime of High Treason. A few dayes after by *Mamertinus*, the *Prefectus Pretorio*, who sat as Judge, *Nigrinus*, as the Author of this War, was sentenced to be burnt alive; which was executed upon him for his Gallant Fidelity to his Prince, which they called Treason against him he cou'd an Usurper. After him *Romulus* and *Sabastius*, two *Curiales*, or *Decurions*, of the Town, were for having been great Actors against *Julian*'s Party, put also to Death; and all the rest were pardoned; for so *Ammianus* tells us, it pleased the mild and gentle Emperour to ordain in Equity, in their Behalf, whom Necessity, and not any Design, had thrust forward into the Danger. But it seems he would not trust *Nigrinus*, nor have any Respect to his Fidelity and Constancy, although gal-

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Which *Julian* as his men besiege.

Where they find notable Opposition.

The Defendants holding out, till that *Constantius* was dead.

at *Sapientia*.

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Julian in great Fear of himself.

How he laboured to secure his Interest.

Constantius manages his Matters in Mesopotamia as prudently as they would bear.

Receives the News of Julian's Practices in Italy, and other Western Countries.

113. But these things happened some time after. We must see the Setting of *Constantius*, and the Mounting of *Julian*, who seemed but a Meteor, in that he arose before the other was down; and after he had alone appeared in another Colour, appeared suddenly vanished. While *Julian* still lay at *Nessus*, he was extremely perplexed with various Cares and Fears. He expected to hear, that the Garrison at *Aquileia* had broken forth, and drawn the Provinces of the *Julian Alps* from their Obedience to him. He also stood much in fear of the Eastern Armies, being told, that the Forces dispersed through *Thrace*, to give him a Stop, were drawing down under Command of *Narcotianus*, a Comes, towards the Straights of *Succi*. To obviate these Difficulties, he gathered together the Army of *Illyricum*, which was well-disciplin'd, and heartened by Success; and to gain the Affections of the People, refused not to receive the Complaints of Private Persons, spending some time in Hearing their Causes; but especially he endeavoured to purchase the Favour of the Corporations, and that Unjustly, by Condemning many Persons to Publick Services there. Two Senators of good Note he much courted, viz. *Symmachus* and *Maximus*, who were lately returned from a Message they were sent on to *Constantine*, and passing by the better, he promoted the latter to be *Præfatus Prætorio of Rome*, in the place of *Tertullus*, and that for the sake of *Rufinus Vulcatius*, whose Sister's Son he was: And he ordered his Affairs so well, in reference to Provisions, that the People, which was wont to be very Tumultuous, made little or no stir during his Government. Further to Secure the Fidelity of those who now pretended Fair to him, he designed *Consuls Mamertinus*, the *Præfatus Prætorio of Illyricum*, and *Neutis*, who had lately wonderfully pleas'd him, by Railing upon *Constantine*, as the first Prince that had Promoted Barbarians. While thus betwixt Hope and Fear he Ordered his Matters as well as he could at *Nessus*, *Constantius*, still lying at *Edessa*, was often Disturbed by the Reports which his Scouts brought to him, and thereupon was very doubtful what to do, whether to Fight the *Persians*, as they might light on them, upon occasion, or with double Force Attack *Bisacade*. And though his Inclinations were to move Westward, yet it troubled him to think of leaving *Mesopotamia* Exposed to the Violence of the Enemy. For the *Persian* King hover'd beyond *Tigris*, which, if he pass'd, and found none to Resist him, he might easily cross *Euphrates* also, and do further Mischief to the Adjacent Provinces. However, *Constantius*, purposing to preserve his Army as intire as he could, for a Civil War, was Resolved not to make Havock of his Men by thrusting them upon Destruction in Attacking the *Persian* Garrisons, which he found by Experience to be strongly Fortified; but, lest he should be blamed for Negligence or Cowardise, he gave order to *Arbeto*, *Agilo*, and other Officers of Hoise, to Fortifie, as well as they could, the Banks of *Tigris*, and, observing the King's Motions, to retire*, in case he should venture over. They received Intelligence by their Spies at *Concilium* and some Fugitives, but such as was altogether Repugnant to it self, and contradi-
ctory: for the *Persians*, of all men, kept their Councils the most secret, which were communicated to none, but some of the most close and Trusty among their Nobility; and of Divulging any thing they were so cautious, that they worshipp'd *St. Constantius*, as a Deity. For this, or other Reasons, the Officers ordered to the Borders *Julianus*, valde
were so Distrustful of themselves, that they often sent for the Emperour, Protecting that with all the Force they could make, if the King should come, they could not be able to make Head against him.

114. Though of the *Persian* King nothing could certainly be known out of the East, yet from the West now came News certain enough, that *Julian* had over-run *Italy* and *Illyricum*; and having Secured the Straights of *Succi*, there staid for the meeting of greater Forces, wherewith he was resolved to Invade *Thrace*. Hereat *Constantius* was very Melancholick, and his Grief would only admit of Ease from this Consideration, that he had ever been Happy in suppressing Usurpers. He thought it the safest Course, by degrees to send away the Souldiers in the Publick Carriages, that they might be ready to make timely Resistance; for which as he was preparing, word was brought the next morning, that the *Persian* King, for certain, was returned Home; upon which good News, he took all away, but such as of course were left to the Defence of *Mesopotamia*, and departed to *Hierapolis*. Here, consi-

A.D. 361.

trajit plures
nauarum pu-
blicas adde-
re.

Qui nuper ex
primam augu-
re barbarice
piliatit au-
stem immed-
tate natuam
Constantianum.

Consilium Lau-
de Libanus
in Augustum
affertur Con-
stantius sed in
ora. Vasilus
illud idem re-
prehendit.
Natus Vati-
bus in Lyciam.

Sect. 4. dering the Danger he was to undergo, he cauled all his Army to draw up in the Camps; and to animate them, from a lofty Tribunal, with a serene and pleasant Countenance, made a Speech to them. He told them, "That being ever solicitous to carry himself, both in Word and Deed as comport'd with Honesty, and as a prudent Pilot, having Steered, according as he found the Wind and Weather to require; he was now constrain'd to confess some Errors before them, or rather accuse himself, as guilty of too much Humanity, which he thought would have conduced to the publick Good. He advanced *Galus*, his Cousin-German to the Dignity of *Cæsar*, and sent him to the Defence of the East, at such time as *Magnentius* had made Disturbance in the Western Parts, whom their Valour at length suppress'd; but he (*Galus*) declining from all the Tracks of Justice and Moderation, committed many Enormities no way fit to be related, and had received such Punishment as he had deserved. And he wish'd, that his Misfortune would therewith have satisfied it self; but now had followed a Mischief greater than all that was past. For *Julian*, whom he had appointed to Watch for the Defence of *Gall*, against the Invasions of the Germans, while he himself was imbroil'd in the Motions of the Nations bordering upon *Illyricum*, madly puff'd up by the Success of some slight Engagements with an half-naked Enemy, having cajoled an inconsiderable Number of men, fierce, and desperate for any pernicious Design; had set up for himself, and entred into Rebellion against the Commonwealth, contrary to Justice, which had ever been both the Parent and Nurse of the Roman Empire. It must be therefore their Part, to crush so monstrous a Design in the Beginning, before it should grow to any Maturity. Neither was it to be doubted, but that God himself would be assisting to their Endeavours, by whose Sentence ungrateful Persons are ever condemned; so that their Swords should be turned upon themselves to their Destruction; who without any Provocation, but on the contrary many ways obliged, had entred into a Course pernicious to such as were Innocent; and he concluded, that he was of the Opinion, nay very confident, that if once they came to engage, they would be so overpower'd with Fear, that they would neither be able to look them in the Face, nor endure the Noise of their Shouting to Battel.

115. His Harangue had that Operation upon the Souldiers, which he desired; for, consenting fully to what he required; of Anger, they made the usual Sign with their Lances, and desired to be led away against the Rebel. Herewith exceedingly encouraged, he sent away *Arbeto*, whom he had found very lucky in the Suppression of civil Broils, with the *Lancearii*, the *Martarii*, and the rest of the light-Armed, and *Goamarus* with the *Leiti* toward the Straights of *Succi*, knowing him to bear ill Will to *Julian*, for being disgraced by him in *Gall*. But now did his Fortune, in the Opinion of our Historian, clearly preface his End to be near. For he was often frighted in his Sleep, and dreamt, that his Father put a beautiful Child into his Lap, which dashed, and cast to the Ground, the Globe or Sphæar that he bore in his Right Hand. Now *Ammianus* tells us, that this did signify a Change of Times, though his Flatterers made him believe other things; but if this beautiful Child was that *Julian*, who, if any, was set in his Lap, when he made him *Cæsar* (upon his Father's Account, he being *Constantine's* Brother's Son) this Babe of Grace was but little grateful to his Uncles Memory. But *Constantius*, he saith, confided to his most close Attendants, that now he ceased to see any Apparition, as one forsaken; but sometimes he beheld it in a more ugly Shape; and this was thought to be the *Genius* appointed to his Safe-keeping, which now had quitted him, as one about to leave the World: For as much as Divines, He adds, do report, that all men, as soon as born, have some Deities allotted them, to govern their Actions; (the Stability of Fate always preserved) but seen by very few, as these alone, whom their manifold Virtues render famous; so that by this Doctrine *Constantius*, who was wont formerly it seems to see his *Genius*, was a man Famous for his Virtues. However, he was not so far discouraged, but being come with Speed to *Antioch*, he halted thence with all Alacrity, as he was ever wont, when he went about to chastise Rebellions; at which though many murmured, yet durst none speak openly against it. Marching thence, when Autumn now declined, as he came to a Place called *Elippocephalus*, three Miles distant from that City; he was presented with the Spectacle of a dead man, having the Head cut from the Shoulders, lying on his Right hand toward the West, wherewith being struck, as apprehending it ominous, he went forward, and came to *Tarzus*. Here he was seized with a gentle Fever; but believing that Motion and Exercise might do him Good, he resolved to proceed in his Expedition, and through difficult ways reached *Mopvestia*,
Situata

Sends some Forces against him.

He comes to Antioch.

A.D. 361.

Quæ multiplex
est causæ Piti-
tatis.

Secl. 4. Situate at the Foot of the Mountain *Taurus*, and the last Station of *Cilicia* on that Road. Hence he had also determined to move, on the following day; but was detained by the Force of his Distress, which by Degrees, was grown to that Height, that he burnt like Fire, and could for Heat scarcely be touched. All means used for his Recovery proving unsuccessful, he bewailed his End; and having, as the Report went, named *Julian* his Successor, at last, after long struggling with Death, he departed this Life. Such was the End of *Constantinus*, at *Mopsus*, or *Mopserena* on the fifth of *October*, as writes *Ambianus*, or rather on the third of the *Ides of November*, as some date it, in the thirty eighth year of his Reign, and the forty fourth of his Age, in the Consulship of *Taurus* and *Florentinus* A.D. CCCLXI.

Proceeding,
dies at Mopsus
in Cilicia.

Laws made by
him in his last
year.

His great kind-
ness to *Themi-
stius* the Philo-
sopher.

116. Before we had brought *Constantius* to his End, we should have taken a view of the Laws he made in the last year of his Reign; but that it would have broken the Series of those Actions which he prosecuted in order to his marching Westward, and therefore we referred it hither, where something more ought to be spoken of his Character. And in order to this, we may first call to mind what we have already observed; That he was very Studious to Preserve and Increase the Dignity and Privileges of *Senators*. To this end, principally, he Directed his Fifth Oration, or Constitution, to the *Senate of Constantinople*, distinguished at present into Nine several Laws, according to the several parts of which it consists; bearing Date on that third day of *May* which preceded his Death, from *Gephyria*, a City of *Syria*, distant two and twenty Miles from *Antioch*. The first Direction it gives, is for the better Election of *Prætors*, concerning which he had formerly made several Laws; as we have already seen. But now further He Ordains, That at the making of the *Senatusconsultum* (for the Choice, as we shewed before, he left wholly to the *Senate*, which must consist at least of thirty Persons) should be present Ten of the Principal *Senators*, or those they called *Summates*, viz. such as had been ordinary *Consuls*, had born the Dignity of *Præfects*, *Proconsuls*, and *Prætors*; and, what is more to be taken notice of, *Themiſtius* the Philosopher, he will have in particular to be there. This Person Flourished at this time, with great Reputation for Learning, which appeared herein, as well as otherwise, that with excellent Commentaries he Illustrated the Works of *Aristotle*. *Constantius*, to Encourage Learning, and reward for Deferving a Man, for whom he had Extraordinary Kindness, had, almost six years before, by a peculiar Oration (so these Imperial Constitutions Directed to the *Senate*, are termed) Promoted him to the Dignity of *Senator*; and now, to do him still Greater Honour, will not have any chosen *Prætors* without his Presence and Assistance at the Election, amongst these *Summates* or *Proceres*, as the Persons of the Highest Quality; and that further, with this Elogium of him, as a Learned Man, That his Learning Ennobled his Dignity of *Senator*. But further, as to the making of the *Senatusconsultum*, he will have them give their Voices in order, and not by the way of Exclamation, or Acclamation, to what was said by the first that spake; when they all cried together *Iæ*, or *Nay*, or went out to their their Opinions; as was usual then, and now continues to be the Custom in cases of smaller consequence in Publick Assemblies of that nature. And if any *Prætor* died in his Office before he had Celebrated the usual Games, he Enacted, That after the same, one be chosen to succeed him, as should in course have been *Prætor* the following year.

He provides for the Public Buildings of *Constantinople*.

117. The second Head, or Segment, of *Constantine* his Oration, hath relation to the Publick Works of the City of *Constantinople*, for which, by occasion of the *Prætorship* he Amply provides. For, in the first place, whereas all the five *Prætors*, which in his time we have said to have been in this City, were obliged to be at the Expence of Publick Games, or Pastimes; he very laudably changes the Custom, Ordaining, That, for the time to come, only Three of them be at this kind of Expence, and that the other two, in room thereof, contribute a Sum of Money to the Publick Fabricks, or Works of the City; and to each he limits the Expence, requiring, that he who bore the Title of *Prætor Constantinianus*, should pay one thousand Pounds of Silver, and the other, called *Flavialis*, five hundred. But, in case any of them should be constrained to be Absent, by reason of Sicknes, Age, or the like; then he Ordains, That they send their *Procurator* to the *Consules*, or Officers of the *Præfect* of the City, with the Sum of Money which they were obliged to expend; and which *Consules* were to see the Works carried on and Finished; yet so as the Names of the *Prætors* were to be set upon them: But in case any wilfully and contumaciously Absented himself, then, as a Multitude, he Ordains, He shall pay half as much more as his share came to; which Multitude shall be

A.D.

361.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

Themiſtius qui
per *Philosophus*
causæ agit
Scientia Digni-
tatem.

*Et hanc subre-
ptionem im-
peditur*
causæ quæ
votus & pro-
prium hoc in re
ordinum fuit.
Vide Comment.

L. 12. de
Prætoribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

L. 12. de *Præ-*
toribus & Quæ-
sturis, Cod.
Th.

Secl. 4. Levied by the Governours of the Provinces, after Warning received from the *Præfect*, into whose Office they were to pay it, whence it should be laid out in some Publick Work, whereon the Name of the Contumacious *Prætor* was not to be set; and in case Money could not be had, the Governours were to proceed by way of Distress, which also was to be brought into the Office of the *Præfect*. Now the Ordinary Judges or Governours of Provinces are commanded to take this Pains, for that by other Laws it was incumbent upon them, to find out such *Prætors* as sulked or concealed themselves, and to force them into the City, there to Discharge their Duties. And if those Judges failed therein, they were also Finable for their Omiffion, and the Fine was, in like manner, to be Employed upon Publick Works; being Levied and Expended by the Officers of the City's *Præfect*, the Dignity of whom, *Constantius* hereby Advances, as he himself Declares his Intention to be, who but two years before had given Beginning to the *Præfect* himself. And very much indeed his Authority, and consequently his Dignity, was hereby Advanced; he having Power to send his Officers through all the Provinces of the Eastern Empire, to Levy this Multitude inflicted upon the Governours; Besides that great Privilege he granted to the *Senate*, and consequently to him, who was Head of it, that Appeals should lye to them out of *Bitynia*, *Paphlagonia*, *Lydia*, the *Hellspont*, the *Islands*, *Phrygia*, *Sabazaria*, and other Parts, by another Law. From the great Care of Publick Works he here manifests, it's probably concluded that at this time there were some Notable Buildings he had in hand; as possibly, the *Baths*, *Aqueducts*, and *Forum Regium*, which some mention to have been raised by him. The Desire of carrying on these Works in this his City, as he calls it, was so great, that whereas formerly he had absolutely refused to give leave to such as had been *Prætors*, to Excuse themselves from the *Prætorship*; now he is content they be Excused, provided they bring to the Bank, or Chamber, of *Constantinople*, so much Money, as the two *Prætors*, lately mentioned, were obliged to pay toward the Works.

His Indul-
gence to *Sti-*
nator.

118. But further, as to the Privileges of his *Senators*, for so he terms them, he Ordains; That they be freed from the Burthen of the *Metato*, so as without their consent none should Lodge or Quarter in their Houses; a Privilege which afterward would not be permitted them, and therefore this Law, or branch of this Oration, is not put into *Justinian's Code*. And whereas they were wont to be Sued by the Treasury, when Husbandmen fled and absented themselves, he Commands, That if they received no Profit from the Lands of such Husbandmen, they should not be obliged to pay for such Fugitives. Now this *Gothofred* Expounds to be meant of some small Lands which their *Coloni* or Husbandmen had of their own, besides those of their Lord's, which they Tilled; but I see no reason why we may not understand it of those who plaid least in fight, and betook themselves to the shelter of Great men, when a Tax came out, and therefore their next Neighbours were bound to make up the Sum Imposted, as formerly hath been shewed, from which Burthen he will have his *Senators* Excused. It was a Custom, that when there was any danger of Famine, as in this City of *Constantinople*, or great want of Corn, or Provisions for War, or upon any other urgent occasion, the Provincials were bound, at a Market-price, to find, and Sequester Corn for Publick Uses, which very few were Excused; but *Constantius* bestows this Immunity upon the *Procurators*, or Stewards of *Senators* throughout the Provinces. As to the Payment called *Lustralis Collatio*, of which we have already spoken, to which Merchants, or such as Trafficked with Wares, or with Money, were principally and especially obnoxious; he declares, by another part of this Oration, That the Rusticks, or Husbandmen of *Senators*, who only sell the Growth of the Lands they till, are not to be Comprized amongst such men, or taken for such; there being indeed two Contracts required to make a Merchant or Trafficker; the one, of buying first a Commodity, and the next, of selling it again for Profit or Advantage. Further, at this time, it being lawful for the Governours of Provinces to raise within their Jurisdictions certain publick Works, as of *Baths* or the like, when and where they thought fit, without consulting the Prince or the *Præfectus Prætorio* (which yet afterwards was forbidden) they were wont to cels the Estates of *Senators* amongst others. But this *Constantius* in another Part of his Oration forbids; and for that there were throughout the Provinces, certain *Senators* empowered to look to, and preserve the Privileges of those of that Order within their Districts, (in like manner as the common People had also their *Defensores*, the Church it's *Protectores*, and the Poor their *Overseers*) he impowers them to make, constant Opposition against the incroachment on their Immunities; which if they, being of so

Infra scribitur.

L. 1. de *Monetis*, Cod. Th. lib. 7. tit. 6.

L. 7. de *Acquæ*
duccionibus, Cod. Th. lib. 7. tit. 6.

ratio vocatur
& Synecdoche.

L. 1. de *publica*
mentali Collatio, Cod. Th. lib. 11. tit. 1.

L. 1. de *Collatio*, Cod. Th. lib. 11. tit. 1.

L. 1. de *Collatio*, Cod. Th. lib. 11. tit. 1.

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Sect. 4. great Quality, and Interest, could not obviate without having Recourse to the "A. D. 361.
Emperour; no wonder that the *Curiales* (or *Senators* of Corporations) were much vexed also at this time, upon the same Account.

In what Cases he will not excuse them.

119. These are the Privileges which he Ordains, and Confirms to his *Senators*; but lest they should seem to be set free from all Services and Obligations, besides what, at the beginning, is said concerning their Obnoxiousness to the *Prætorship*, and Expence of Publick Pastimes; he Instances in other two things, wherein they must plead no Immunity or Excuse. By reason of his Indulgence to Persons of this Rank, or to shun the Charge and Trouble in Corporations, many of the *Curiales* had obtained an Admission into the *Senate*, as others betaken themselves to the Army, or to Holy Orders, as a Refuge; but now, though formerly he was content, that being admitted to this Dignity, they should be freed from their Obligations to Bodies Corporate, He Commands, That such be struck out of the List of the *Senators*, and be returned back to their own Towns. But this is to be understood of those only who had not born the Office of *Prætor*, or been at the Expence of the Publick Pastimes; for if they had undergone this Charge, he will not have them forced back to their Towns; yet with this Proviso, that if they had any Money in their hands belonging to the Publick Treasury, or that of their City, they should be bound to make Restitution; for, out of these *Decuriones* were chosen the *Exatores*, *Suceptores*, and *Curatores*, of whom heretofore. The next Duty from which he will not permit them to be Excused, is, that of the *Protonotarius*, than which nothing is more obscure in the whole Code: but from all laid together, it appears (though the word in general signifies Principality, or Pre-eminence) to have been the chief Inspection or Care of Contributing and Collecting Tributes in each *Municipium* and Territory throughout the East; and this to meet. L. 4. de Decurionibus Cod. Th. Abst. à Cod. Justin.

Otherwise indulgent to the Nobility.

His Virtues.

He prefer'd none but fit Persons.

120. But thus we see how Indulgent *Constantius* was to *Senators*; and this is further to be said of him, that he cherished the Nobility and Senate as much as his Successor did the Corporations. For evidence of this, there is Extant a Law of his, though not in the *Code of Theodosius*, (out of which several have been lost) yet in that of *Justinian*; for that his it was, though it be by error Ascribed to his Father, appears from the Direction of it to *Orfitus*, who was *Præfides Prætorio* in his time. This forbids any mean Trafficquers, as the *Monetarii*, or any of abject and vile Office or Employment, as the *Stationaries*; or such as lived by any filthy course of Life, to attempt, or aim at any Dignity: or if they did, it Commands they be recalled, and returned back to their former Trade, or meanness of living. For his other Qualities, those who do not Flatter him, confess, that he ever preserved the grandeur of Majesty and Authority; that with a great and lofty Mind he contemned Popularity; was careful and sparing in conferring Honours, and especially the greatest; which, as a Maxim, Princes that designed to uphold the Reputation of Nobility, and prevent Popular Tyranny, have ever observed, as much as they could. Neither did he suffer (or but rarely) either those in Civil or Military Commands to grow greater, through any new Accession of Power or Honour, which would still give others that came after, encouragement to expect the like; so that, under him, no Commander was Advanced to the Degree of *Clarissimus*, having been only of the Rank called *Perfectissimus*. In his time, no Governour of a Province went forth to meet a *Magister Equitum*; neither did he suffer a *Magister* to meddle with any Civil Business; but all, both Military and Civil Officers, according to the ancient Custom, bore Reverence to the *Præfides Prætorio*, as those that were Advanced to the highest pitch of Honour. In preserving Military Discipline, he was rather too exact; sometimes too scrupulously examining the Merits of his Souldiers. The *Palatine* Dignities, or his Court-Employments, he bestowed, as it were, by a Plumb-line and Level; and during his Reign, no Upright or Unknown Person came to bear any Sway; but it was certainly known, who, of course, having passed ten years of Tryal in an Inferiour Station, would be promoted to be *Magister Officiorum*, *Largitionum*, or the like. As it was rarely known that any who had been bred a Souldier was translated into a Civil Employment, so none were preferred to Command in the Armies, but such as had undergone the Toil of War, and learn'd Experience. Preferment did not in his dayes court all sorts of men indifferently, L. 6. de Dignitatibus Cod. Th. Justin. lib. 12. tit. 1.

at honorum elevationem optem.

Sect. 4. differently, or rather those who were most unfit; Persons did not rise to those Places, as inspired, without any Breeding or Study to fit them for the Discharge; as in later Enthusiastick Ages, wherein, not only in Spiritual Ministries, but even in Civil Employments, little or no Study and Preparation hath been thought requisite to any Place. The Light within us, or Natural Wild-fire, whether Canting or Drelling, was not esteemed for its Cracks. Study and Industry were not accounted Formal Foppery, nor what distinguishes us from Beasts, turn'd into Ridicule: Persons might then, as of old, perhaps think themselves born Poets; but not Orators (either Religious or Secular) not Lawyers nor Judges in either kind; Commanders Military, or the like.

121. But, *Ammianns* further tells us, that he was a Diligent Affector of Learning, but by reason of his blunt Wit, no good or tolerable Orator; and yet, if that be the best Oratory that accomplisheth its End, he was not unhappy in his Military Eloquence, and could as effectually cajole the Souldiers, as his Learned Cousin *Julian*; for he still perfwaded them to what he pleas'd, and this by a gentle and pleasing way he had, which this Writer upon occasion asserts, though not where he gives us his Character. Having no success in Rhetorick, he further writes, he betook himself to Poetry, wherein he did nothing to any purpose. As to his manner of Living, he was spare and sober both in Eating and Drinking, whereby, (Temperance being, as a Prince that Reigned in England an hundred years ago, and since, was wont to say from good Experience, the best part of Physick) he retained perfect Health, that he seldom contracted any Disease; but when he did, he was sick to Death. He was content with little sleep, when Business and Time required it; and so Eminent for Chastity, during his long Reign, that he could not be so much as suspected toward any Male he had about him, which Crime, Envy, though without any real ground, is wont, faith our Historian, to fix upon Persons placed in great Power. He was an Excellent Horseman; and in calling a Dart very Expert, but especially skilled in Archery; and also most knowing in the Arts of Training and Commanding Foot. As for things of more light consequence, as that in Publick he was never seen to blow his Nose, to Spit, to turn his Head aside, or in all his Life to have tasted any sort of Apples; our Author tells us, he omits to speak further of them, as being often before mentioned by him, and so having but summarily, as he faith himself, mentioned his Virtues, or such of them as he could know, he comes to explain, or lay open his Vices. In other matters, he was to be compared to the middle sort of Princes; but if there was but any Appearance of Designed Usurpation, true or false, he knew no end of making Inquisitions, and neither sparing respect to Right nor Wrong therein, exceeded *Caligula*, *Domitian*, and *Commodus* in Cruelty, whom imitating in this Excess, at the beginning of his Reign, he utterly cut off all that were near him in Blood or Kindred. In such cases his Suspicions were trained to the utmost, and his Inquisitions were so Severe, that he appointed most cruel Persons to Examine and Judge the Accused, and was desirous, in Punishing those that they Condemned, to extend their Torment even farther than Nature her self could hold out, herein far more Rigid than *Gallienus*. *Ammianns* instanteth in this Emperour's milder Punishment of such as he found really guilty of Treason; takes occasion to shew how unlike *Constantius* was to *Marcus*, who, when *Cassius* had Usurped in Syria, burnt a Packet of his Letters, which had been intercepted. And after this, he cites passages out of *Cicero* and *Heracitus* the Philosopher, to shew the baseness of Cruelty; to which we must needs Assent, but not Imitate, nor transcribe him in such like Salles.

His Cruelty, according to the Character given him by *Ammianns*.

Too much given to be led by his Eunuchs.

122. But to the purpose; he adds, that this Cruel he was, under a specious Pretence to Justice and Clemency: that, as in Foreign Wars, he was broken and dejected, so in Civil Contentions, wherein he had usually Success, he was puffed up, and, as he words it, sprinkled with horrid filth from out of the Intestine Ulcers of the Commonwealth; so that through a depraved purpose, rather than what was Right and Usual, he Erected in *Gall* and *Pannonia* Triumphal Arches, at a great Expence out of the Calamities of the Provinces, with the Narration of his Acts thereto affixed. To his Wives, his whining Eunuchs, and certain of his Courtiers, who Applauded all he said, and observed how his Inclinations stood, that they might accommodate themselves to his Humour, he was too too much addicted. And the Badness of the Times was rendred worse by the insatiable Rapacity of his Officers, who thereby procured him much more *Odium* than Money; and this yet seemed more tolerable, that He himself would never hear a Cause, nor take any care for the Ease of the Provinces, at such time as they were burthened by multiplied Tributes and Impositions. He was, to conclude this Character, of his mind, (for what our Author

A. D. 361.

Perque spolia
via longissima
impendia ca-
litas.

Equitandi co-
pulatione, arti-
smus armatus
perque fustibus
max.

De numeratis
captis bonis
que fite potui-
mus, nec ad
explananda
ipsa vitia vo-
luimus.

Et intellus
scurius sup-
latus persequi
horrendi.

Sec. 4. thor speaks of him in reference to Christian Religion, will be more proper for another place) easily inclined to take away what he had formerly bestowed. As for that of his Body; His Complexion was brown, his Looks lofty, and his Sight quick; the Hair of his Head was soft, his Face, which he constantly shaved, very comely; from his Neck to his Groin he was tall, but his Legs were very short and bowed, which made him very excellent in running and Leaping. Such is the Character given him by *Ammianus*, to which it will be requisite that we add what others, as to this point, have written of him, and one that lived in his Time, though of a Pagan persuasion; for, to avoid partiality from Affection, we shall not have respect to what Christians have written, but rather consider what they say of him upon another occasion.

The Character given him by *Entropius*, and other Pagan Writers.

123. *Entropius*, who lived also in his dayes, having told us, that he died as he was going against *Julian*, betwixt *Cilicia* and *Cappadocia*, in the forty fifth year of his Age; adds, that he deserved to be reckoned amongst the *Diot*, or Deified Emperours. Then, that he was a man of egregious Tranquillity, of a pleasing Disposition, that he gave too much credit to his Friends and Familiars, and was something too Uxorious; yet, in the first years of his Reign, he demeaned himself with great Modesty, was an Enricher of his Familiars, and suffered not those which he had found Industrious to go unrewarded. But he was more than ordinary inclined to Severity, upon suspicion of Treason, otherwise mild; and one whose Fortune was to be more esteemed in Civil than in Foreign Wars. With *Entropius* agree others of the same way, commending this Emperour, as to the Main, and laying the great fault upon his Eunuchs and Ministers. But, although all men, and especially the greatest, be obnoxious to Flattery, and those that see with the Eyes, and hear with the Ears of others, are too subject to false Representations; yet *Constantius* cannot hereby be Excused, nothing so much declaring the Wisdom and Disposition of a Prince, as the choice of his Ministers. For, they all therein suit their own Inclinations; not but that the most Prudent may be mistaken in Men as well as Things; but we speak of the constant Practice, as that of this Emperour, who was generally thus imposed on all his Life. At parting yet we cannot but observe something in his behalf, in reference to the odious comparisons *Ammianus* makes of him for his Cruelty. He tells us, that he rooted out utterly his Kindred at the beginning, which all must needs acknowledge an Expression Hyperbolic. For to be sure, *Gallus* and *Julian* he left alive, and they and He were as near a Kin as Brothers Sons are wont to be. Then *Entropius* tells us, that *Dalmatius Caesar*, another Cousin, was indeed killed, but by a *Military Faction*, and so as *Constantius* rather suffered, than commanded it.

A.D.

361.

From *Dalmatius Caesar* pro-
fessing idolatry,
negot Patru
assimilis, haud
multo post op-
pressus est a
furiis mili-
tari, & Con-
stantio pariter
suo fratre
hanti.

A.D.

361.

Sect. V.

From the Death of Constantius, to that of Julian.

The Space of a Year and some Eight Months.

1. THE Body of *Constantius*, being duely prepar'd and Coffin'd, was committed to the care of *Jovian*, his *Protector Domesticus*, to be convey'd with Royal Pomp to *Constantinople*, there to be Buried with his Relations. While in the way, *Jovian* was sitting in the Chariot that carried the Corps, there were offered to him, as was wont to be to Emperours in their Journeys, the Essays of Corn, or Military Provisions; and the Public Beasts of Carriage and Burthen belonging to the *Cursus Publicus*, were produced so often, that, together with Officious Meetings upon the Road, and other things of like nature, they portended Empire to *Jovian*, but such as was empty, and rather a shadow of Sovereignty, than otherwise, as to one who was the Chief Actor in a Funeral Solemnity. But to leave him with his Charge, and return to the Place whence he set forward with the Body. After the Chief Officers, Military and Civil, had by their Tears and Lamentations, testified their due Respect to the dead Emperour, they began to lay their Heads together, and consider what was to be done in reference to a Living Prince; for such an one now there must be made, or owned. After some final Attempts in another way, at the motion of *Eusebius*, as was reported, whose Confidence now flew in his Face, *Julian*, who seemed near at hand, and well provided, was resolv'd on for the Man; and *Theolaphus* and *Aligildus*, both Counts, were sent unto him, to inform him of the Death of his Kinsman, and to desire that he would without delay come into the *East*, which was very ready to receive his Commands. But the Report went, that *Constantius* made a Will, and therein, as was formerly said, named *Julian* his Heir; bequeathing Legacies and Estates in trust to other his Relations; for as for Children he left none, except one in the Belly of his Wife, which, proving a Daughter, and after him named *Constantia*, was afterward married unto *Gratian*. In the mean time, *Julian*, being variously employed in *Illyricum*, yet principally intended his Divinations, by a continual prying into the Entrails of Beasts, and viewing of Birds; yet were the Answers so Ambiguous and Obscure, that he remained still in Suspence, and altogether Uncertain about future Events. At length one *Aprunculus*, an Orator in *Gall*, afterward promoted to the Government of the Province of *Narbon*, a man mighty skilful in the *Arsuspina*, made to him a full discovery from the Liver of a Beast, as he said, which was covered with a double Call. Yet was he still afraid that these things were but feigned, which were thought to be acceptable to him; and this made him Melancholick, Good Man, till he himself perceived by a good Token, that *Constantius* his Death was portended. At the very same instant, *Ammianus* tells you, that the Emperour died in *Cilicia*, a Souldier, who lifted him up upon his Horse, he being set, fell down to the ground; whereupon he suddenly cryed out, in the hearing of all the Company, that He, who had raised him up on High, was fallen himself. He knew that this boded well towards him, yet he was resolv'd still to continue in *Dacia*, as still apprehending several Dangers. For he thought it not safe to trust to Conjectures, which perhaps might fall out quite contrary to what they suggested.

Constantius being dead, his Officers send and invite Julian to take possession.

2. These Doubts were at last all dissu'd by the Arrival of *Theolaphus* and *Aligildus*, who brought him News both that *Constantius* was dead, and that he had declared him his Successor, as our Pagan Historians write; though Christians have believed, that this was feigned by them, to take off the *Odium* of *Julian's* Usurpation. For, it's reported of *Constantius*, that when he lay on his Death-bed, amongst other Reflections upon his Life, he repented that he had Promoted *Julian* to be *Cesar*; but if he so Ordained him his Heir, the more Gratitude he owed to his Memory, and so virtuous and gallant a man as he, doubtless, could not but pay so just a Debt. However, now delivered from all Fears and Incumbrances, he was exceedingly Elevated with his good Fortune, and gave credit to Divinations; but, knowing how much Expedition had contributed to the Advancement of his Affairs, he gave Orders to march away into *Thrace*; and passing down the Mountains of

Julian hears of his Death.

Sect.

Sect. 5.

of *Succi* came to *Philippopolis*, which by the Ancients was called *Eunopolis*, his Army following very cheerfully, now they found that what they were going to take by Force, and that with the hazard of all their Lives, was devolved upon him by ordinary Right. When the Report of his Approach was brought to *Constantinople*, all forts came out to receive him as one dropp'd from Heaven; and there he entered with great Applause, and the Admiration of all that beheld him, on the eleventh of December. For they considered how a young man, as he was, of a little Body indeed, but renowned for very great Actions, after bloody Tragedies made by him, both of Kings and Nations, was suddenly pass'd from City to City, easily conquered all Opposition where he came, and in Conclusion arriv'd at the Possession of the Empire, as by Divine Appointment without any Expense of Blood, or Treasure, to the Commonwealth. But though he came so easily to the Supreme Power, he thought fit not to forgive such as had been his Enemies formerly, though now they readily submitted themselves, and clost with his Interest. For within a short time, as a Foundation of what was to follow, and to have a Judge whom he could trust, he made *Sallustius* his *Præfatus Prætorio*, and with him joyn'd *Mamertinus*, *Arbeto*, *Agilo*, *Nevita*, and *Jovinus*, whom he had lately promoted to be *Magister Equitum* through *Illyricum*. Those Commissioners pass'd over to *Chalcedon*, where being protect'd and assisted by the *Triumvirs* and others the Principal of the *Jovianis* and *Herulians*, they made more severe Inquisition after Criminals than Justice would bear them out in, though their Emperor did; some few Cases only excepted, wherein they could scarcely exceed the Merits of such, as they had Reason to condemn.

3. They began with *Palladius*, whom they banish'd hither into *Britain*, merely because he was suspected to have plotted something against *Galus*, while under him he executed the Place of *Magister Officiorum*. Next after him they punish'd *Taurus*, who had born the Office of *Præfatus Prætorio*, in the like sort though his Crime, in the Opinion of indifferent Judges was very slight, as having, when he apprehended a Storm approaching, betaken himself to the Court, and Protection of the Emperor his Master: And the Record made at his Tryal, was not read without great Horror, it beginning in this manner: *In the Consulship of Taurus and Florentius*, *Taurus being brought to the Bar*. In like manner was *Pentadius* endangered, it being objected that he took in Short-Hand the Answers of *Gallus* to such Interrogatories as were put to him a little before his Death; but he made so clear a Defence, that he escap'd unpunish'd. By the Force of the like Injustice was *Florentius* the Son of *Nigrinianus*, and then *Magister Officiorum*, confined to *Boas*, an Island of *Dalmatia*; as for the other *Florentius* who had been *Præfatus Prætorio*, and at present was dignified by the Title of *Consul*; he retir'd with his Wife, and though condemn'd to Death in his Absence, lay conceal'd all the time that *Julian* lived. But *Evagrius* the *Comes Rei Private*, and *Saturninus*, who had had Charge of the Palace, together with *Cyrinus*, lately a *Notary*, could not escape being driven into Exile. And yet the Cases of these Persons seem'd very Just and Reasonable, in Comparison of what *Ursulus* the *Comes Largitionum* suffer'd, whose Death *Ammianus* tells us that Justice he self seem'd with Tears to have bewail'd, and taxed *Julian* as ingrateful, however *Libanius* hath minc'd the Matter. For, this Person when he was made *Cæsar*, and sent into the West, perceiving there was a Design to straighten him of Money, that he might have nothing to give to the Soldiers, and thereupon they might be ungovernable; wrote Letters to the Treasurer of *Gall*, to furnish him, as he should have Occasion. After he was put to Death, when *Julian* perceiv'd he was thereupon revild and curs'd as a most ingrateful Wretch; he thought to save the Sore by a Fallacie, and excuse the Crime which could not be expiated; affirming that the man was killed without his Knowledge, and pretended that the Soldiers made him away in a Rage, for having spoken those Words at *Anicida* so long before; which we related upon Occasion of *Constantinus* his coming⁴ before that City. Therefore in the Opinion of *Ammianus* he was fearful and unadvised, when he made *Arbeto* a man of an uncertain humour, and very proud, to be Judge of these Matters, (for the Officers of the *Legions* and the rest that were joyn'd with him were but only for Show) to him whom he knew first of all to have been set against his Life and Safety. Though those Proceedings were deservedly blamed, even by his Followers, yet other Examples of Severity he shew'd, wherein he did not at all deviate from the Paths of Justice. *Apodemus* the *Agens in Rebus*, who had been so buisie in the Death of *Gallus* and *Sylvanus*, as also *Pani* Sirnam'd *Casena* the *Notary*, not to be named without Grones for those that were murder'd through his violent Prosecution, were burnt alive. *Eusebius* the *Præpositus Cubiti*

A. D.

361.

Flamme inflat
castra fœlicius
occupat.Causas ve
mentis equo
bonique Spē
crant.Vide Valsi
Ann. in Am
mian. lib. 22.
p. 206.Quam malidi
dis exortati
nibus in
fi Julianus in
ter expostum
impugnabile
Crimen exco
si pōt exalt
mans ore.

Sect. 5.

culi to *Constantinus*, that Execrable and intolerable Eunuch, who from a contemptible Original, arriv'd at so great Impudence as even to command the Emperor, rather than to receive Orders from him, was also put to Death.

He too severely
handles the
Palatines, or
Courtiers,
though gene
rally bad men

4. From such animadversion upon these men, *Julian* fell on all the *Palatines* or Courtiers; though not like a Philosopher or one that profic'd to find out the Truth. He had deserved Commendation, had he retained such as were honest amongst them; though indeed of these there were but very few. For it must not be denied, but that most of them were very vicious, and did much hurt to others, chiefly by their ill Examples. Some by the Spoils of Temples, our Writer informs us, and the rest by some other Occasions of gratifying their rapacious Minds, from the greatest Poverty raised themselves to vast Estates, and knew no Mean, neither in giving, taking, nor spending; being so habituated to invade the Rights of other men, that all Shame laid aside they stuck neither at Perjury nor any other Crime. Hence came up Feasts and Entertainments as luxurious as those us'd at *Triumphs*; *Silks* also began to be ordinarily worn, which hitherto was of vast Price and Scarcity; the Art of Weaving increased; and especially that of the Kitchen; and of splendid Furniture. Neither was the Discipline of the Camp less corrupted than that of the Court, the Souldier now only exercising his Voice in Songs; not contenting himself, as formerly, with a Stone in his Tent whereon to rest himself; but carrying about his Feather Beds, and drinking out of Cups, whereof each was heavier than the Sword he wore: he shamed now to drink out of an earthen Pot, and by his good Will, no House would serve him but one of Marble, whereas a *Spartan* Souldier is said to have been punished for being seen but within doors at the time of an Expedition. But so furly and rapacious the Military man was in those Days, toward his Fellow Subjects, and on the contrary so cowardly towards an Enemy, that being arriv'd at Wealth through ambitious Courses, and in a way of *Laziness*, he was become very expert and knowing in the Vanity and Worth of Jewels; a thing certainly wherein those of but little later times were but meanly practis'd; for the Story was now commonly known of a Souldier, who in the Reign of *Maximian*, at the Plunder of the King of *Perse*'s Camp, having light of a Bag wherein were precious Stones, cast out the Gems, as things of no Value, and went away very well pleas'd with the fineness of the Bag. But now *Luxury* had so infected all sorts of People, that on a time when a Barber was sent for, to cut *Julian*'s Hair, there was one brought to him who had on a very gay Suite of Cloths, at the Sight of whom *Julian* was astonish'd, and said, I commend not a Rationalis, (of which sort of Persons, formerly) but a Barber to be called. This Fellow being asked what Income he had by his Trade, made Answer, that he had twenty *Annone* (or so many Loaves) by the Day, and as great an Allowance for Horfes, (an Allowance for an Horfe they call'd in those times *Capitum*) besides a large yearly Salary, and many other advantages he had of begging Boones. Here at the Emperor was so mov'd, that he turn'd him and all his Companions away, (together with *Cookes* and others, Professors of like Mysteries that received the same Advantages) to shift for themselves, as they could. Thus much *Ammianus* tells us of the Corruption of the Court, and the Reformation made by *Julian*. Now let us see how the Reformer, in all Relations, order'd his own Affairs.

Julian pro
fesses him
self a Pagan.Cunningly di
vines Christi
ans.

5. And first for his Religion, although from his very Childhood, he was much inclin'd to Paganism, and as he grew up, his Inclination that way still more increased, yet not daring to shew it, with as great Secrecie as he could, he had meddled with Matters relating thereunto. But now that his Fears were removed; and he had Liberty to do what he list'd, he reveal'd the Secrets of his Heart, and in Plain and downright words commanded by his Edicts, both that Temples should be open'd, Sacrifices be offer'd as formerly, and the Worship of the Heathen Deities restored. And that his Design might take fuller Effect, having sent for the Disfenting *Christian* Bishops with their Followers to the Court, he told them, he would have them bury all Disfentions amongst themselves, and without all Fear or Controul, every one live after his own way; and this he did with great earnestness and Cunning, that this Liberty procuring great Disagreement, he might not be endangered by that mighty Advantage which their Unity would have procured to them. For he knew very well from Experience, that no wild Beasts are so fierce and violent against men, as *Christians* commonly one against another. And he would often cry out, *Hear me whom the Allemands and the Franks have heard*, there-in thinking he imitated the Saying of *Marcus Aurelius*; though not a little differing. For that Prince when passing through *Palestine*, toward *Ægypt*, he was

A. D.

361.

Non at Philo
sophis in
dega verita
tis Profess.Secretis hoc
nominalis lan
dare, a plebi
que autem
improbata fu
it. Rimois
cum tot Pala
tis Indivisi
qui si non ali
adventum ac tem
per ante diffi
ciliant, etiam i
contemptum
Principis com
miratione vide
ri necesse est.
Ceterum Gre
garius Nectan
or, in eodem
Conspectu a
Juliano factum
offe dixit, et
Christiani: Si
Simeon quem
Julianum vide
videt.Vicinas diu
nas respici
annos, tota
denique publi
fationem
que vultu
tūc capite.Goes to Con
stantinople.Severely ani
mated upon
his late
Enemies.Several un
justly put to
Deaths

Some justly.

Sect. 5. much pelted by the finking and tumultuous *Jews*, cried out with grief, O *Mir-* A.D. 361
comanni, O Quadi, O Sarmatae. At last I have found out more troublesome People than
your selves. About this time he was much troubled by the importunate Addressees of
 many that came out of *Aegypt*, being, as naturally that Nation then was, very much
 addicted to Suits and Troubles; and so Covetous as well as Impertinent, that it
 they had given any Money for doing Business, as either to procure the mitigation of
 a Fine, or longer time of payment, they would earnestly contend to have it refo-
 red. They so plagued with their noise, both *Julian* and the *Præfetti Prætorio*,
 (not being satisfied except they could recover money which had been so employed,
 though seventy years before) that they could do no other Business for them; and
 therefore the Emperour, for his own Quiet, and the Repose of his Ministers, by an
 Edict commanded, that they should all pass over to *Chalcedon*, whither he promised
 that he himself would shortly follow. But there when he had them, Command
 was given to all Boat-men, that they should not dare to bring over again for
 as one *Aegyptian*, which being carefully observed, this their Design of Informing
 fell to nothing, and they were all forced to return home as they came. But this
 gave occasion to the Promulgation of a Law, as *Ammianus* tells us, whereby no
 Person that had legally received any Money for doing any Business, should be mo-
 lested.

Provoked
the trouble
some and
pertinent
Egyptians.

He Publisheth
a Law.

6. This Law is still extant in the Code of Theodosius, and the very first that therein we find made by Julian. But, besides what *Ammianus* writes concerning the particulars for which the Egyptians made so troublesome an Address, it principally aims at such as had given Money for Places or Offices in the Commonwealth. For, amongst other means of getting Money, the *Palatines*, or Courtiers of *Constantius* understood this very well; it being a Trade seldom unlearn'd by bad men about Princes, to make money of the Employments of which they have got the bestowing; the great Cause of ill Management of Affairs, when Preferment goes not according to Desert, when men are not sought for that are fit for Place; and such, but such Places as may be fit to advance and enrich, are sought for men. Yet *Julian* his great aim in this his Edit, is evident that this corrupt course of giving and receiving Money for Honours did not in *Constantius* his time extend to sell the filling of any eminent Offices either in Court or Camp with new upstarts or un- experienced Persons, he being wonderfully cautious to prevent all such Abuses. However, *Julian* signifies in this his Edit, that some there were who through base Fictions or Lies had thrust themselves into Places, which ought to have been conferred upon good and deserving Persons; and others have written that Offices in the time of *Constantius* were set to Sale, which must have been then meant of the inferior sort, and such as were removed from his own Observation; for indeed it was impossible but that one who was so served by Eunuchs and other Flatterers, should be sometimes over-reached in bestowing inferior Places of Magistracy. But as however as to the Law, it was neither allowed to give nor to receive any Gifts of this Nature. Yet if such a thing had happened, he that had received, and was in Possession thereof ever esteemed to have both the more legal and more plausible Title; and for as much as the *Roman Laws* (so *Julian* tells us in this Edit) are utterly censured in Strangers to such Contracts, he takes away all Power of recovering Money so dishonestly employed. But in case any should endeavour to recover such Money, or to get it back into his Hands, he should not only lose it, or return it to the Party, but forfeit as much more to the Publick Treasury. Now this Constitution respects only the time past, and gives order in such cases as were then in Controversie; but afterwards several other Laws were made by succeeding Princes, both for punishing in the same sort such as had used Bribery for the obtaining of Preferment, and for prevention of the Sale of Honours and Offices, even by way of Oaths, as we may see in due time. For this practice still returned, as Princes became obnoxious to their *Freud-men*, *Eunuchs* and *Courtiers*; and hard it was utterly to prevent it; for, though the Emperours, as we see by *Constantius*, might be severely careful, that in Places near them and under their Eyes, none but fit and experienced men should be preferred; yet they could not know all Persons, nor out of their own Acquaintance make provision for the Supply of those Numerous Employments and Charges through this vast Empire. Such they must take as those about them recommended, so (that as was formerly said) the work of a Prince, especially lies in chusing such Eyes and Ears about him as he may trust, in what he cannot see and hear himself: ill Management when it happens begins most commonly here, and Government is hereby rendered as Culpable and Infirm, as the Growth and Nourishment of the Body perverted, when the first Concoction thereof is vitiated.

7. When

Sect. 5. 7. When the first day of the year was come (on which this Law beareth Date) which gave beginning to the *Consulship of Maximinus and Neuvitta*, the Emperour himselfe confended to far as to walk on Foot with the rest, at the (A) Solemnity, which some commended as the Effect of his Humility, but others condemned as below him and proceeding from Affectation. But this Affectation he began every day more and more to Iew. He himselfe would manumit the Slaves, they being introduced forth by the *Procurius Admissum*, till he was told, that that Iurisdiction now belonged to another, Being acquainted that *Maximus* the Philosopher was come to see him out of *Africa*, in an unseemly sort he leaped up, and forgetting what Person he was, ran as fast as his Legs would carry him a great way out of Doors, fell upon him and kissed him, and then brought him in with great Ceremony, which rendered him (b) ridiculous for his unseasonable Ostentation, and immoderate thirst after vain Glory. And in the Opinion of *Ammianus* herein he forgot that Saying of *Tully*, by which he and such like are censured, *viz. Those very Philosophers even to those Books which they write against Vain Glory, prefix their own Names, with Design, that by that very Act whereby they despise Honour and Fame, they themselves may be spoken of and commended.* Not long after, two of those *Agencies in Rebus*, who had been turned out, came confidently to him, and offered, on Condition they might be restored, to discover to him *Florentius* the late *Præfēt*; but he reviled them and worthily called them Informers, adding withal that it was not the part of an Emperour by any indirect Discoveries, to find out a man who concealed himself for Fear of Death, and who perhaps would not long be suffered to lye concealed without Hope of Pardon. But he not only endeavoured a Reformation in civil Matters; into the Affairs of the Camp he also made diligent Inspection. He preferred such to Commands as he knew well experience'd, reinforced the Cities of *Thrace*, and was very careful that neither Arms, Clothes, Provisions, nor Pay should be wanting to those Souldiers who he understood to have gallantly demeaned themselves under the Limits of *Ister*, against the Incursions of the Barbarous Nations. In Reference to what *Ammianus* thus discourseth, concerning his Care about the Provisions of Souldiers; there is a Law of his extant in the *Code*, and dated on the sixth of this same month of *January*. When they were in their March, their Provisions both for Horse and Men were all found them and brought to their hand; but when in Garrison or their Quarters, the Provincials were not bound to bring it, but they themselves looked out, as for other things, for Straw and Provender. Now left ill they should range too far, or be too much straitned, by this Edict directed to *Salsus* the *Præfētus Pretorio of the East*, he ordains that their Purveyance shall extend twenty Miles.

He reforms
Matters rela-
ting to the
Camp.

He is courted
by all Nations.

And wonderfully elevated

8. Having fetled Matters relating to the Army as he thought convenient, he was
advised by his Followers to fall upon the *Goths*, a fallacious and perfidious People; but
he answered that he look'd for a more noble Enemy; and as for them, the *Ga-*
latican Merchants would do their Buſineſs, by whom they were ſold up and down; and
yet, notwithstanding his Prefumption and flighting of them, this deſpised People
afterward made bold to purchaſe by their Blood, and poſſeſs by their Sword a
great Part of the *Roman* Empire. But *Ammianus* further tells us, that thus careſul-
ly demeaning himſelf, he became famous to Foreign Nations, and by Degrees fill'd
the World with the Renown of his Fortitude, Sobriety, Military Skill, and emi-
nency in all other Virtues. And the Dread of him being ſpread to the ſame Extent,
Ambaſſadours were now ſent to him from all Quarters. Here he gives us an Enumera-
tion, as if he repeated the Epigram concerning the *ſpectacula* commonly aſcrib-
ed to *Martial*. The *Armenians* and thoſe beyond *Tigris* now begged Peace, and
the *Indians*, from Countries yet more Eaſtward, by the hands of their Noble men
made him Preſents. From the Southern Parts of the World, the *Moors* offered him
their Service. From the *Northern*, and where the River *Phæſis* falls into the
Sea, the *Boſporani* and other Nations till that time unknown became humble Sup-
pliant; that, for a yearly Acknowledgment, they might be permitted to live qui-
etly in their own Countries. Thoſe Addreſſes cauſed no ſmall Joy at Court, which
was farther increaſed by News out of *Italy*, that the *Weſt* might alſo contribute her
Share. For now News was brought that they within *Aquileia*, convinced that *Con-*
ſtantinus was dead, had ſurrendered the Place. *Julian* with theſe Felicities was much
elevated, and began now to entertain Fancies and Deſigns, which exceeded the
Bounds of humane Nature. He look'd upon himſelf as one, whom governing the
World in Peace and Tranquillity, *Fortune* preſented with a *Cornucopia* of all
good things, and to his former Trophies, he added this great Favour, that while
he reigned alone (how long it was we ſhall thoſtly fee) he was neither diſturb-

A.D.
362.
Mameri-
no & Ne-
vitta Cof.
(a) Ludoz ite-
llesz Jan.
Cof. telre con-
fuerent ex-
ante diem 3.
Nos. Jan. is-
teris per conti-
num triduum
Per Provincia-
la moribus
Circulatori-
bus
Circensii illi
quosque a die 3.
Nos. Jan. a
Magistratibus
redebant ut
Libanus notat.
Pater.
(b) ut si fi-
lii Imperatoris
Libanini.
L. 7. de Fro-
gione militaria
Anonae. Mil-
ites ad vicefi-
num lapidem
capulum ptere-
missos Det. 3.
L. 7. Jan. Ma-
meritino & Ne-
vitta Cof.

Quæ tam sepo-
sita est, quæ
gens tam barb.
ra cæsar. Ex
qua dno

Sect. 5. ed in the Commonwealth, was performed by the Service and Convenience of the A. D. 362.
Cursus. Now to *Vicars*, as being Officers of greater Dignity, by their Place *Speciales*, and the Jurisdiction of whom extended to a whole Diocese; he gives more Courts and that by his own Hand than he allows by the *Præfidi* to be granted to the *Præsidents* and *Consulares*, who were but *Perfessidini* or *Clarissimi* by Degree; and governed but particular Provinces. But this law was, too strictly worded at least; and that in Reference to the Conveyance of the publick Money to the Treasury, and of the Souldiers Clothes (both which are signified by *Species Largitionales*) without which nothing could be done either at Home or abroad. For, the *Vicars* were not always present to give out Licenses upon these Occasions; and therefore by another Edit directed to the same *Mamertinus*, he explains and mends his former; giving Power to all Governours of Provinces in their Absence to grant them; but this upon Suggestion of the *Comes Largitionum* and the *Præpositi*, or Officers belonging to the Revenue, which *Valentinian* afterwards confirming calls a most prudent or advised Law. Yet did not *Julian* think it so prudent as fully to provide against Abuses of a thing of so vast Consequence to the Empire. For within three Months after he found it requisite, by another Constitution still directed to the same *Præfidi*, to inflict no less than capital Punishment upon him that should use more Horses or Beasts than his Warrant or License expressed. There are two more Laws ascribed to *Julian* concerning this Subject, whereof the former will be more conveniently mentioned upon another Occasion, and the other though it bears his Name, yet by the Subscription it should rather belong to his Successor. However, here it will be convenient to take Notice that it hath relation to the publick Course of the Province of *Sardinia*, and the ease of the Inhabitants of that Island. For, *Sardinia* lying out of the way, there being no Road through it into any other Province, *Julian* (or *Jovian*) thinks fit that the People be not put to any Expence for the finding of Horses; or if there was any Occasion to go Post, the Officers of the *Præfidi* he declares shall find themselves Horses upon such necessary Occasions. But whereas there was great Use of the *Angaria* or Carriages drawn by Oxen for Conveyance of Corn (for this Island as well as the adjacent *Sicily*, was a Nurfe of the City of *Rome*) to the several Ports, of which there were seven in number; he ordains that the Use of them continue; and that *Mamertinus* under whose Jurisdiction this Island lay, should: exacte such Order about them, as he thought most convenient.

12. There is another Law made by him, while he still resided at *Constantinople*, which is not so remarkable of it self, as for the manner and circumstances of the making of it. For, the Title of it shews plainly the manner of the Emperor's proceeding in Confinity, or when he sat in Council, in these words: *Part of the Act* had before the Emperor *Julian Augustus*, when *Mamertinus* and *Nevita* were *Consuls*, on the three and twentieth of March at *Constantinople*, in Confinity; there standing by *Aug. Mamertinus*, *Jovius*, of the Dignity of *Clarissimus*, the Quæstor; *Anatolius* the Magister Officiorum; *Felix* the *Comes Sacrarum Largitionum*, &c. The Emperor *Julian Augustus* said: after which follows a Sentence given by him in Greek, concerning the Validity of Writings, that Credit be afforded to such, as by others are not proved to be counterfeit or invalid. Now this Law, which is very singular and remarkable in divers respects, is one of that sort called *Cognationales*, or which the Emperor, acknowledging cognance of a Cause debated before him in Council, pronounced and Enacted thereupon; of which kind there are others in the Code of *Theodosius*. It's called Part of the *Act*, or Records, because a Book or Record was kept of all done or transacted in Confinity, as from the time of *Henry* the Eighth it hath been the constant custom in the Privy Council of *England*, which, in several respects, resembles that of the Emperor. In whatsoever place he consulted with his Council, that Place was called the Confinity, be it where he would. Here is expressed the composition of his Confinity or Council, of whom it consisted, and though only three be mentioned, *viz.* the Quæstor, Magister Officiorum, and *Comes S. L.*; yet by the &c. others are understood to have been present, comprised, as well as these, amongst the *Comites Confinityarii*, of whom heretofore. In the next place may be observed, the Place and Precedence of these Great Officers, in the time of *Julian*, what it was. Again, we may take notice of the Ceremony of these Dayes, and what respect the Councillors bare to so great a Majesty as that of the Emperor; for while he sat, they stood by him, and much more did the Parties and Advocates concerned in the Cause: a Posture very fit to shew their Distance; the Ceremony of being uncovered not being then in fashion, as in after-Ages: And yet there are several Instances in Histories of the sitting of these *Confinityarii* with the Emperor. Further, we may see how

Sect. 5. how the Rule of Entering things down in the Confinity, was, to prefix the Names of such Councillors as were present (at least some, and the choice of them) as our Clerks of the Council practise at this day. And in the last place, we cannot but take notice of a Novelty, which expresses the Humour and Affectation of the present Emperor. It was the Custom before his time, that the Emperours, when in Confinity, gave their Sentence, or pronounced their Decree in *Latin*, as the Language of the Empire, to preserve the Grandeur and Majesty of *Rome*, from which, all must needs be acknowledged to have proceeded; though Necessity of Affairs might urge Princes to have their Residence, at least sometimes, at another Place more conveniently situate for Defence and Succour of the Provinces. But *Julian* his Vanity now broke the Course, who, as appears from *Ammianus*, was, not without occasion (with *Gothofred*) derided with the Names of *Loquax Talpa*, and *Literio Græculus*, and out of this Affected Humour he inserted Greek words into his Constitutions. As for other Laws, *viz.* Rescripts or Edicts, sometimes they were Published in both Languages; and for this reason, as *Justinian* renders it, that being in Greek, they might be understood by more, and in *Latin*, to observe the Form and Decorum of the Empire. In Publick Assemblies they spake in *Latin*, and had an Interpreter, as *Constantine* the Great in the Council of *Nice*: But some time after, especially when the Western Provinces were over-run, and there was not so much Use of *Latin*, *Greek*, was generally spoken by them, as best understood both by Speaker and Hearers, and the *Roman* Tongue by degrees began to be disused, till *Justinian* restored to the Empire its Western Provinces; and presented it with a new Model of its Laws, dressed up in its own Language. But after his time all went to wreck again.

13. This Law, made in Confinity, as we said, was of little Concernment, the Preamble being only of Use; but about a Month after, he made another Constitution, wherein his Subjects, whether of *Constantinople* (for whom possibly he principally intended it, being said to have done so many things for that City) or other Places, were much concerned, at least, as he believed: the thing was this. It was the custom of old time, that, when the *Roman* Generals had performed some notable Matter, the Provinces, the associate States and Kings presented them with Golden Crowns, or a quantity of Gold it self, therewith to grace their Triumphant; and this was called *Aurum Coronarium*, being a thing of course, not only amongst the *Romans*, but the *Greeks* also. When *Claudius* triumphed over our Country of *Britain*, amongst other Golden Crowns, the hitherto *Spain* presented him with one of seven pounds weight, and *Gallia Comata* with another weighing nine. To *Titus*, for his Conquest of *Judea*, were Crowns sent by *Vologesus* King of the *Partians*, and to succeeding Princes the same, by others, upon like occasions; for, Histories other Books afford many other Examples; which from Victories were drawn at last to other Emergencies, so that the Provincials presented this Gold also, and that by Custom, as good as Law, when any remarkable matter of Joy hapned, as at the coming of a Prince to the Government, upon his Adoption, or any Pardon or Indulgence granted the Subject. But *Julian*, now, by an Edit, declares, That it is a free Gift, and depends merely upon the Will, without any Necessity, (to which Custom, and the Greediness of some Emperours, had brought it) to receive either upon Senators or any other sort of People. Not but that he himself received these Crowns, or Gold that was presented him by Cities and Provinces at his Arrival there, or in some other gratulatory Address; as particularly from the Inhabitants of *Edessa*, and from the *Saracens*; but herein he also practised Moderation, commanding that no Crown should exceed twenty *Solidi* in value. Yet doth he acknowledge, that sometimes Necessity of Affairs may require the Exaction of this Gold, but in such case he will not have others to be Judges (as the *Præfidi Prætorio*) but reserves the Power of Determining when it is fit to accept of this voluntary Present (or require it) to himself. This Law bears Date on the twenty ninth of *April*, and on the day following another there we find though not concerning the same matter, yet of the same Nature, *viz.* of Indulgence toward the Subjects; so that *Gothofred* rationally concludes them but several Parts of one and the same Constitution. Sometimes there had been Indulgences granted to particular Persons or Places, whereby they were discharged, by singular Privilege, from the Duty and Burthen of the *Capitatio* heretofore mentioned; but it seems betwixt them and the Officers that collected that part of the Revenue, Disputes were at this time wont to arise, how far or to what those Privileges did extend. Now he follows to enquire that Rule in Law which directs us in ambiguous things to the most favourable Interpretation, explaining by such Indulgence and Immunity a full Discharge not only from

Señ. 5. Moderation, and the Innocent protected. For though our Historian confesseth he was otherwhiles impertinent or unreasonable in the Debates, by demanding at such a time as was no whit proper, of what Religion each of them was that were at Law; yet were none of his Sentences or Determinations faulty, neither could it be proved that out of respect to Religion or any other thing, he deviated from the Course of Justice, to that of Partiality, which he shunned as some dangerous Rock. And this he could the better do, for that acknowledging the Levity and Heat of his Nature, he permitted the *Præfides* and those about him, to restrain his Impetuosity by reasonable Hints; and he shewed that he was troubled at his Faults, and rejoiced in being corrected. When the *Advocates* that pleaded before him would applaud him, as one that perfectly understood what Reason was, he is reported to have said in Anger, that he should have rejoiced and been proud had he been commended by such as durst have reprehended him, had he done otherwise than well. Another Example *Ammianus* will give you, which yet also may stand for many, of his Clemency in hearing and deciding Causes; and this we shall also relate that we may not seem to omit any thing brought in his Commendation. There was a Woman had a Cause depending before him, and that against a Courtier, whom when the Law amongst the *Protectors* and girt with the usual Girdle, being struck with so unexpected a Sight, he began to complain and make Disturbance; but he bade her follow her Business, if she found her self concerned: for as for her Adversary he was so girt that he might go more readily through the Dirt, and was not able to do her any Harm. In respect of these and other things (and he himself as *ipſi dixit* daily said it) old Justice, which being offended with the wickedness of mankind was by *Aratus* lifted up into Heaven, in his Reign returned back to Earth; if he had not done some things by his meer Will and Pleasure and from no warrant of the Laws; and sometimes by Errors clouded the manifold Courses of his Glory, as his Historian wordeth it. Yet after many other things, he also amended certain Laws, cutting off their Ambiguities, and explaining fully what was commanded or forbidden by them. But that, faith he, was unmercifully and with perpetual Silence to be overwhelmed, that he prohibited Professors of Rhetorick and Grammar to teach; if they were of the Christian Religion. This, whereof *Ammianus* so much and justly complains, we shall further examine, and discover amongst Matters peculiar to Religion. At present we shall take a View of the Laws themselves made by him at this Time and Place, and see how far they discover such Amendment as that Author writes of.

19. The first which bears Date from this City of *Antioch*, is an Edict lately referred by *Jacobus Gothofredus*, out of certain Manuscripts, to the Code of *Theodosius*, for empowering Governours of Provinces to assign inferior Judges, called *Judices Pedanei* for deciding smaller Causes. For better understanding hereof, it will not be amiss to tell the Reader, that there were three sorts of Causes in Reference to the Cognizance of Judges. Some were of an inferior Sort, for determining whereof the Governours of Provinces were compelled to assign Pedaneous Judges, they being thought too much below their own Examination. The second was that Sort which those Governours were bound *Ex Officio* to hear in Person, neither could they assign any other to do it. And the third was such as they might either hear themselves, or appoint others to hear them. But in the time of the Tetrarchy of *Dioclesian*, *Maximian*, *Galerius* and *Constantius*, by whom the *Vicars* of the *Præfides* *Prætorio* were constituted, the Power of the Governours of Provinces was much lessened, Necessity being put upon them of hearing all Causes in Person, and the Power of assigning lower Judges utterly taken away, except in certain Cases; as when they were so employed in Business of an higher Nature, that they could not attend; or the Number of Causes was so great that they could not dispatch them. But now by this Edict *Julian* gives them Power to assign other Judges, as promiscuously in Matters of lesser Moment, and for it this Reason, that there be some Causes wherein it is superfluous for the Governour of the Province his Presence to be expected. Therefore are there three sorts of Times and also of Laws to be distinguished in Reference to the hearing and determining of smaller Matters. The first before the Reign of *Dioclesian*, when these Governours as *Præsides*, *Proconsuls*, and the like, could not take Cognizance of them, but referred them to other Judges. The second in which they were constrained to hear them themselves alone, which being a very great Burthen to them; the third was introduced by this Law, whereby they had Liberty either to hear them or cause others to do it at their Pleasure. But as for these *Pedaneous* Judges, they were so called because they judged on the Ground, or standing on their Feet (*as below the ordinary Governours, or Judges, who fate upon Tribunals or Judgment-Seats*) and they only had the Hearing of inferior Causes, but not

A.D.
362.

ut ipſi dixit
affidit.

Ex ceteris
ment non val-
fines hanc Ju-
ligen non ad
fist Gramma-
ticæ ad Rhetori-
cæ sed etiam ad
Medicina pro-
fessores permiſ-
ſi.

L. quædam, ut
que primo co-
ſecunda in-
terpretatur in
Editibus post-
ma Gothofredi.
de Officio Stellæ
Provinciæ.
lib. 1. Tit. 7.
de Lex. ult. Cod.
Juli. de pedaneis
Judicibus.
Dati. 5. Kal.
Aug. Antiochia
Manuscriptis et
Noviticia Cod.
A.D. 362.
Legi. 3. Cod.
Juli. de pedaneis
Judicibus.

Vid. Notes in
tit. 3. lib. 3.
Cod. Juli. de
pedaneis Judge

Señ. 5. not any Jurisdiction. So that our Courts of *Piepodres* something resembled theirs, both in Etymology, having their name also from *Feet*, and in the smallness of Matters therein determined.

20. But *Julian* now lying at *Antioch*, and considering as he himself faith, what Multitudes of People flocked thither, both upon his own account, and of the Magistrates which attended him, thought with himself how he might provide against the Scarcity and Dearth of Provisions thereupon like to follow. But herein he was acted by his Humour of Affectation, and Study of Popularity, which transported him into Courses superfluous; and founded upon no probable Reason, as *Ammianus* affirms, with this Observation, that a Cheapseller forced in an inconvenient way is wont to beget Scarcity and Famine. And the Magistrates of the City openly demonstrated to him that the thing could not be effected, yet would he not desist from his Purpose, being of the same Disposition, faith he, as his Brother *Gallus*, though not in point of Cruelty; yet for this Reason, he raged against them, though Mischiefs followed hereupon, as we shall see hereafter. But to maintain this Popularity; whatever these Courts were wherein the Citizens and he differed about bringing down the price of Provisions (of which *Ammianus* is silent) he had full Liberty to order his own House and Attendance as he pleased, so as to reduce them to a smaller Number, that less might suffice them. He began with his *Protectors* *Dumetius*, of whom, some ever attending on his Person at Court, and others being allotted to other Quarters in the Provinces, as their Defence required; to the former fort, viz. those that were called *Præfentales*, or in waiting, he commanded by Man and Horse to be given; but ordered the rest away to their several Limits or Stations. Obliging the *Antiochians* in this point, whether they would or not, he took another Course wherein he also thought he gratified them, and that was in filling up their Court, or Senate, by forcing Persons to the Service thereof, a matter wherein he was very troublesome if not tyrannical (as *Ammianus* complains very much of him) that right or wrong, he would subject them to that kind of Slavery. Yet to say Truth, as to this particular relating to *Antioch*, he rather followed the Example of other Princes, than went on his own Head; as his Friend *Zosimus* would have him. The Eminence of this City, as being the Head and Glory of the East, had procured it divers Privileges from ancient Emperours; and amongst the rest, that if any one by the Mothers side was descended from those of the *Curia*, he should be obligated to the Services of the said *Curia*. This now *Julian*, by an Edict directed to *Julian* (his Uncle by his Mother and *Comes* of the East) both relates and confirms, but with this Restriction: In case the Father of the Party did not belong to the *Curia* of some other City; for if he did, the Son was obligated unto that; it being a general Rule in this as well as other Cases (Slavery of the Mother excepted) that the Son followed the Condition of the Father: but in Case the Father was not obligated to any *Curia*, but the Grand-Father by the Mother was to this of *Antioch*, the Son was also to be obligated, and that by this special Privilege. So of old there were Privileges granted to the Inhabitants of *Ilum*, whence the *Romans* were said to be descended; to those of *Delphi* the Place of the famed Oracle, as also to the Inhabitants of *Pontus*, by procurement of *Pompey*, that the Mothers Descend should there qualify Persons for Citizens.

21. But yet a little to explain *Ammianus* his meaning concerning his unjust forcing of Persons to these Services, there's another Law Extant concerning this Subject. Dated but six days after the former, and directed to *Julian*, not his Uncle, *Julian*, but one who was now *Consularis* of *Phœnicia*; except there be some Error in the Inscription. By this it appears, how little Equity such could find at his hands, (as he writes of him) whom these Corporations sought to oblige to their Services, though, as to Original, they were utterly strangers to them; that if they were but Inhabitants in those Places, although they were *Decuriones* in other Corporations, yet the Claim, or Petition of the *Curiales* against them should be good; and consequently, a man might be *Decurio* in two places at the same time; he limits it thus far, that one who had only Lands or Possessions in a Town should not be esteemed an *Incola* or Inhabitant; although this Privilege was granted to some Corporations also that the very having Estates in them should binde to those kind of Services. Again in case they renounced their Habitation before they were named to the Court, they were not constrained to serve, though such renunciation after Nomination was utterly null. And lastly, their Habitation

A.D.
362.

A pied pie
Gallic, vide
Covelli interpret.
in voc.

Inter præcipua
tamen de his
illud agere su-
perfluum vide-
bitur, quod
nulla probabili
ratione,
Subjecti popu-
laritatis amari
de.

L. 1. de Dom-
tibus Cod.
Th. lib. 6. Tit.
24. Dat. 15.
Kal. Septemb.
Juli. ad Cod.

L. 51. de De-
curionibus Cod.
Th. Dat. 5.
Kal. Septemb.
Antiochia Cod.
L. Eius indultus
num. 22. Cod.
Juli. ed. tit.

L. 52. de Decu-
rionibus Cod.
Th. dat. ad Cod.

Dat. 3. Non.
Septemb. Anti-
ochia. Atq. ibi
Ostia. Tyr.

Sec. 5. should not subject them to this Charge, if they had borne Arms and been Cap-
tains in an Expedition, or else with the Title of *Senators* had also some Employ-
ment belonging to Persons of that Quality. Thus we see part of what *Ammianus*
writes of him, in Reference to Corporations, illustrated by the *Code*. Now as for
what he is said to have done in the Point of reforming the Laws, in taking off their
Ambiguity, and removing those Delays that were found in the Execution of them.
As to this Matter we are furnished with another Edict, dated the very same day with
this but now mentioned, and therefore thought to have been joyned to it,
though it carries with it now another Inscription to *Secundus Salustius Præfatus*
Pretorio de Epi. It had been of old held and observed for Law, that Copart-
ners in Inheritances or any other thing might either sue or be sued altogether, or,
though Issue had already been joyned one of them might prosecute or defend him-
self unto Judgment or final Decision, without the Concurrence or Assistance of the
Rest. Now this, in the time of *Constantine*, seemed hard; for otherwise it was ge-
nerally received, That what concerned All was by All to be transacted: and it was
taken for Law, that (as) every Business was to be decided, all being present to
whom it belonged. Otherwise the Sentence should only take Effect amongst such as
were there, how evident and plain soever the Matter was. But although Sentence was
given only for or against, such as were present, yet might those that were absent
sustain great Damage thereby; for however erroneous the Sentence was, if the
Absent should bring the Matter about again, as concerning themselves, the Ex-
ception might lye against them that it was *Res Judicata* an adjudged Case, and pos-
sibly those that were absent might be able better to instruct Council to make out
something more than the other, which might be of great Moment in the Decision.
For these and other Reasons, it seems, *Constantine* the Great had been advised so-
far to abrogate the old Law in this Point, that if the *Consortes*, as the Law terms
them, were in diverse Provinces, or under the Jurisdiction of several Judges, a Pro-
pound should be put to the Suite, till all that were concerned could be present. But
Julian now thought fit to repeal what his Uncle had therein done as giving ad-
vantage to those that desired Delay and would not come to Trial. But whether
to this and other Alterations moved always by Reason, or sometimes by his great
Hatred to *Chi* and *Kappa* (this we shall tell the meaning of shortly) will perhaps
more evidently appear hereafter.

In Appeals.

22. Further, to prevent Delays in Suits, by another Law he Commanded all
Appeals legally made, to be admitted, and all the Ads concerning the Trial
to be transmitted to the Office at Court, by one of the Officers of the *Vicar* of
Rome (to whom the Edict is directed) within the space of thirty dayes, that
they might be recorded; and this under the Penalty of Ten pounds of Gold,
to be levied upon the Office of the said *Vicar*. Now *Constantine* the Great had al-
lowed but twenty dayes for this transmission, but *Julian* thought good to enlarge
the time, and herein was followed by other Princes. But as for such as did not
Appeal within due time, and that upon pretence of Fear, against the *Præfatus*
of the City, the *Pro-consuls*, the *Comes* of the *East*, or *Vicars*, by another Law made
afterwards, he commands, that they be utterly barred: for he tells them, That as
long as he Reigns no Judge shall dare to deny lawful Appeal to any that desire it: and
in case he do, He gives further Direction for the Relief of the Parties. And where-
as it was the Custom, that when any Judge, or Governour of a Province, met with
such Difficulties in the Deciding of a Cause, that he could not of himself overcome,
that then he made Report thereof to the Emperour, and consulted him for Expli-
cation of any Doubt, or removal of such Difficulties in Law, or otherwise; *Julian*
now found, that the Judges were wont to suppress or defer the said Reports. For
prevention hereof, he requires *Mamertinus*, the *Præfatus Pretorio*, to Summon
them within his District, and let them know, that Under penalty of Ten pounds
of Gold, to be paid by themselves, and Twenty by their Office, they should
cause the Report to be transmitted within thirty dayes exprelly. But, forasmuch
as those that carry such Reports, might be hindered by some Accident from making
such haste as was requisite for fulfilling of this Order, to save harmless the Judge
and his Officers, he will have it to be entered in the Register of the Court, what
day it was that the Report was delivered to the Messenger. Further, in pursuance
of the same Design, of cutting off Delays in Suits, by another Edict he declared,
with reason, That after Issue joyned, the *Mandatum*, or Power given to the *Proctor*,
was not extinguished by the death of the Party; and that there might be no need of
beginning again. And in like manner he imposed a Mult of a pound of Gold upon
any.

Sec. 5. any Advocate, that should, after Issue joyned, use a Dilatory Exception, which
should have been used at the beginning.

In matters
relating to
Women.

23. He also amended the Law, or he would be thought so to have done, in some
matters relating to Women. Of old time, the Lands and Houses of *Minors*, or those
under five and twenty (for, by the Law of the *Romans*, Persons are not of
full Age till then) could not be sold or alienated without a Decree in that be-
half obtained, if they lay in the Country; and this *Constantine* the Great extended
also to such as were within Cities. And for prevention of Mischief that arise
to such *Minors* from the Fraud or Carelessness of their Guardians, he forbade Move-
able things also to be alienated without a Decree, three Cases only excepted; as
when things by keeping became worse, or there were Cattel belonging to *Minors*,
that were useless; and if a Woman was married, though not twenty five complete,
yet he permitted her Goods or Estate to be sold without obtaining a Decree, pro-
vided the Consent of her Husband thereunto was had, and that certified by some
Instrument or Writing: which is held good Law in *France*, at this day. By this
Constitution did *Constantine* intend more fully to consult for the Security of *Mi-
nors*, thin had been provided by the old Law, against the rash and heedless Sales
of their Estates made by their Guardians: and herein was his Edict more singular
and exprest, than in those Sales an Instrument was required, whereas ordinarily, in
Buying and Selling, no such thing was necessary; and moreover, by this Edict, he
gave the Woman remedy against her Husband, in case the received Detriment, yet
so as the Sale should be assured to the Purchaser or Buyer. But *Julian*, being
vehemently inflamed with a Zeal to the old Laws and Customes, not only relating to
Religion but other matters, and burning with greater Hatred, if possible, to *Chi* and
Kappa, (as some conceive) did, by a new Edict, Abrogate this part of his Uncle's Con-
stitution (calling him both in this, and another, his Uncle *Constantine*) respecting
Women, and would have the Old Law to be of force, that the Sale of any *Minor's*
Goods whatsoever, whether of Male or Female, without the Authority of a De-
cree, should be null; giving this reason for it, That it was more absurd for
Wives to have their Husbands responsible for such Sales, who possibly should be
poor, and not able to make satisfaction, than recover their own from these who
had made such illegal Contracts.

24. In another matter relating to Women, he changed also what had been done
either by *Constantine* or his Son *Constantius*. It had been a practice too frequent
amongst those of that Sex, for such as were of free Condition, to joyn themselves
to Slaves, out of indulgence to their carnal Appetite, and without any respect to
their Honour, and ingenuous Condition. For prevention hereof, Order was taken
by a *Senatusconsultum*, called *Senatusconsultum Claudianum*, that if, after they had
been thrice admonished to forbear the Company of such as were of Servile Con-
dition, they again offended in that kind, they should lose their liberty, be Slaves
to the Lords of those of whom they had used the Company, and their Children
also remain Slaves to them; according to the Rule in this Case, that if the Mother
was a Slave, the Children should also remain in Servitude. Now this Law aimed
at the prevention of two sorts of Mischief; both of Women, they offending
against Modesty and Chastity, aggravated by the circumstance of the Slavery of
them with whom they had to do; and also of the Damage the Lords of such Slaves
often received thereby; for they might pilfer from their Lords the better to main-
tain, or gratifie such Wantons, and neglect the Business of their Masters, in spend-
ing time to do that of their Mistresses. And this Damage was the greater, by how
much the Employment to which the Servants were put, was of greater concernment.
For, although Servitude did not, as Logicians say of Quality, receive *magis* or
minus, but each Slave, in a strict sense, in what Employment soever, was as much in
Servitude as another; yet betwixt an *Agent*, *Factor*, or he that drove the whole
Trade of his Master, and a mean Scullion, or some idle Fellow, there was a vast
difference, as to the Concernments of their Lords; and therefore she that inveigled
such an one, and made him mispend his Master's Time or Money, was guilty of a
greater Crime, and deserved more Punishment; neither was there need of warn-
ing to be given in a thing of so palpable inconvenience. For those *Agents* or *Fa-
ctors*, by them called *Absores*, and *Procuratores*, had often the whole Estates, and
Concernments of whole Families in their hands; and thence it came that the Law
was very cautious in points relating to them, for the Sake of those that ought them.
If a Legacy of a Slave was left to any one in general Terms, this *Absores* or *Agent*
must not be understood to have been bequeathed; and in Case of an Injury done
to

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to a Master in the hurting of his Slaves, distinction was made by the Law betwixt such an one, and others of meaner Abilities or Employments. In like manner, did the Emperor *Constantine*, or his Son, think fit to make a Difference, and, as appears from *Julian's* Edict, ordain, either that less Warning, or none at all, might be given to a Woman that accompanied with Slaves of this Nature. "But *Julian* by another Edict repeals all Constitutions made to this Purpose, and requires that the Denunciations be made to a Woman so joyntly to any of servile Condition whatsoever, if Slaves to private Persons. Further, as *Constantine* thought fit to be more rigorous in this point so in another to be more moderate, and abate the Severity of former Laws towards Women, in what more nearly concerned himself, his own Profit and Revenue; though as to the Interest of Subjects he was severe. For in case any Woman accompanied with a Slave belonging to his Treasury, or his Lands, he ordained in a large Edict most full of Clemency (wherein he cast several Burthens from off the Shoulders of his Subjects, both in Reference to the Laws and Debts owing to him) that such should not lose her Freedom; yet that some sort of Punishment there might be, He declared, that though her Children should not be Slaves, yet they should not enjoy so full and ample a Liberty as other Persons, but be in a middle State betwixt Slavery and Freedom; as were those who were called *Latini*, or *Spurii*; being as it were free amongst Slaves, and Slaves amongst Freemen, and the Lords of their Fathers should have a Right of Patronage over them, as Masters were wont to have over those that had been enfranchised, on which here we must not insist. But this *Julian* thinks fit also, by the same Edict, to repeal; so "great was his Love to the old Law, or Hatred to something else.

About the
Scriniarii.And other
matters relating
to *Africk*.

25. Again, *Constantius* had appointed the *Scriniarii* of the four *Scrinia* of the Palace by twenty years Service to be freed from Obligation to the Charges of Corporations: but *Julian*, though cross also in the Matter of Corporations to the other Extreme, will have this Term contracted to the Space of Fifteen, by a Law which *Arcadius* the Emperor afterward confirmed. Other Laws he made for the Ease of the People; and in this kind also is remarkable a large Constitution for the Benefit of those of *Africk*, who were harassed with heavy Impositions. The first part of it hath Relation to the High-ways, which being repaired after several Methods proved a great Grievance to some sorts of men, and were for want of a certain and settled Course far worse maintained. In some Places, the Officers called *Magistri* proved a great Want to force those that were Inhabitants in their Villages to work at them: In others, certain Parts, prescribed within certain Bounds, were allotted to be kept in Repair, to those whose Lands lay near to them: and this Course *Julian* approves of as most equal, being founded upon ancient Custom, a thing of which he was so enamoured. There was another great Abuse in the *Cursus Publicus*, of which the Officers named *Mancipes*, plaid many Pranks with the Provincials; being those who managed the Course, that none should exceed what the Laws allowed in the Use of it, who took Care that Horses and other sorts of Beasts should not be wanting to the Course, nor Fodder and Provender to the Cattel. Endeavours were used formerly by sundry Laws to keep them from oppressing the Subject; and now for the time to come, he ordains that they be under the Command of the *Proconsul* of *Africk*. Moreover it was the Custom for great men, and Governours of Provinces, both to burthen the Course it self, and miserably to afflict the Countrey by preffing of Carriages to convey Marbles for the sumptuous Building or Ornament of their Houses, though not seated upon the *Roman* Cawseys or publick Streets, but at good Distances, which he condemns and forbids as a most audacious Practice; and prohibits the Removal of Pillars or Statues of what Materials soever made, that Places may not be deprived of their Ornaments. But the best comes last, or that wherewith the Provincials of *Africk* were most pleased. This was a Pardon or Remission of all Dues to the Treasury: yet with the Exception of what was wont to be paid in Gold or Silver. It was the Custom for Princes to pass such Acts of Grace for weighty Reasons; as, if Lands had been defeated; if overrun by Enemies, or been too much burthened and exhausted by publick Payments. And though *Julian* was sparing in granting such Indulgence, as what was wont to serve for Esteem to the Rich, and little to the Relief of the Poor; yet herein he also imitated his Predecessors, but with Limitation, both as to the Things and Places indulged; for, his Grants of this Nature were commonly so partial as to the Dues behind, and granted only to particular Countries or Places, which yet other Princes also sometimes practised. Some other Laws he made here at *Antioch*, for the filling of Corporations, to which Work he was with so much

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L. 3. ad St.
claudianum.
l'ide Comm.L. 1. de Præ-
mis, Constitutio
Dilectissimum
Præ. Cod. Th.
lib. 6. tit. 25.
L. 1. ad St.
claudianum.
l'ide Comm.L. 1. de Cur-
sibus, Constitutio
Dilectissimum
Præ. Cod. Th.
lib. 6. tit. 25.
L. 1. ad St.
claudianum.
l'ide Comm.L. 1. de Cur-
sibus, Constitutio
Dilectissimum
Præ. Cod. Th.
lib. 6. tit. 25.
L. 1. ad St.
claudianum.
l'ide Comm.L. 1. de Cur-
sibus, Constitutio
Dilectissimum
Præ. Cod. Th.
lib. 6. tit. 25.
L. 1. ad St.
claudianum.
l'ide Comm.

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fection inclined, directed them to nominate the Sons of the *Decuriones*, and such amongst the ordinary sort as had sufficient Estates; for want whereof, he nulls the Choice of some that were lately elected. And for better Encouragement of all, who to comply with his Humour, had joynted themselves to them, he declares that they shall not answer for the failings of such as were made Recruits of the publick Revenue amongst the *Decuriones* before their Admission, but only those to whose Oversight or Negligence it was to be imputed, that such unfitting Persons were intrusted with an Employment of that Consequence.

26. Thus have we illustrated out of the Laws themselves, so far as concerns this Year, what *Ammianus* writes concerning *Julian's* Endeavours in this Kind, and that in Reference to civil Matters while he staid at *Antioch*. Concerning his Complaint of his Rigor towards the Professors of Christian Religion, both in that he mentions and also other Particulars much more will in due Time and Place God willing, be produced also out of his Laws, and his other Writings. Now to take up the Story of that Author where we left it, while he staid at *Antioch*, *Gaudentius* the Notary, who had been sent into *Africk*, to secure that Country against him, by *Constantius*, as also *Julian* who had been *Vicar*, and was esteemed too much a Favourer of the same Party, were apprehended and put to Death, as was *Artemius* who had been *Dux* of *Egypt*, upon Accusations of the Citizens of *Alexandria*; but how justly, and what thereupon followed about *George* the Bishop must be examined in a more proper Place. But now began he to be much inflamed with a Desire of prosecuting the *Perisan* War, considering how that Nation had for sixty years last past miserably harassed the Eastern Provinces, and defeated several Armies that were sent to restrain them, which raised up a Desire in him of Revenge and this was farther heightened by an earnest Ambition to grace his former Achievements with the glorious Surname of *Parthicus*. There wanted not those, who perceiving what vast Designs he had in his Head, and what great Preparations were requisite for bringing them to pass, much blamed his Ambition, and taxed it as dangerous and absurd, to cast the Empire into such Difficulties and Dangers, only for the Humour of one Man, that he might domineer over more Animals; and that murmured to the Appetite of one single Mortal, so many Persons must be sacrificed; which however *Ammianus* blames in them as spoken out of Malice and Sloth, yet is agreeable to the Sentiments of any who bear a Regard to the Preservation of Mankind; for though some Wars be necessary, and the Duty of a Prince, yet boundless Ambition and Desire of Conquest are Passions which humane Nature cannot but abhor, as producing Effects contrary to its best Preferences, which are Peace and Union; and strangely unequal so as to gratify and tickle the Fancy of one small Creature (considered in himself) with a conceit of it's greatness, multitudes of men or a great Part of the world must be disturbed and brought to Misery. These Persons though they durst not speak themselves, yet by suggesting divers Objections to others who they knew would tell him, endeavoured to divert him from his Purpose, urging this especially, that if he would not find Bounds to his Heat this way, he would miscarry as the luxuriant Corn is wont, through immoderate Prosperity. But all their Endeavours proved unsuccessful, or they barked in vain (against a man *Ammianus* tells us, who was not to be moved by secret Injuries) even as *Pigmes* or *Thiodama* of *Lindus*, that Clown, against *Hercules*.

27. For he slackened not at all either of his Zeal for the prosecution of the War, or his Preparations in order to it: But, our Historian confesses, he shed too much Blood, and too often upon the Altars, in order thereunto, sometimes sacrificing hundreds of Bulls, and innumerable Doves of other Beasts, and white Birds, all he could compass both by Sea and Land: inso much, that (notwithstanding all his Labours for the Discipline of his Army, so much talked of, amongst other things) almost every Soldier, and that almost every day, glutting himself with meat, and drinking with as much greediness and Excess, was carried upon the shoulders of such as casually met him, from the Temple wherein they Feasted, through the Streets, to his Quarters; and especially the *Petulant* and *Celte*, who, having come along with him out of the West, were grown confident above measure. The Rites and Ceremonies of this his Religion, were increased also beyond all Moderation, and consequently the Expence thereof to Sums unusual and burthensome; and every man that would make profession of the Art of Divination, how skilful or ignorant soever, without any Bounds or Rules prescribed, was permitted to seek for Answers, and consult the Entrails, which sometimes afforded Predictions of all sorts; and these were every where sought after, and that all manner of wayes, with affected variety. And, out of his great

Curio-

Secl. 5. Curiosity, he had a Project in his Head, of opening the *Castalian Fountain*, so famed for its Power in Fortune-telling, which had been long choked up with a great Heap of Stones, by commandment of *Adrian* the Emperour, who, having found that the Empire was predicted to him by virtue thereof, was unwilling that any other should have from it the same Encouragement: and he commanded the Dead Bodies, buried thereabout, to be removed, according to the Rite whereby the *Athenians* formerly had purged *Delos*. But, while he pleaded himself with the Exercise of those Superstitious Vanities, an Accident there was, which relating to the same, gave him no small Disturbance. On the two and twentieth of *October*, the Spacious Temple of *Apollo* at *Daphne*, the Suburb of *Antioch*, built by *Antiochus Epiphanes*, wherein he placed an Image as big as that of *Jupiter Olympius*, took fire, and was suddenly burnt; with which Disaster being extraordinarily moved, he caused more severe Inquisition than was usual to be made about it, and commanded the greater Church at *Antioch* to be shut up, imagining the Christians had set it on fire, out of Envy to see it incompanied with stately Galleries, or a *Peristylum*. But, privately, *Ammianus* tells us, it was reported to have been burnt upon occasion that *Asclepiades*, a Philosopher, being come to visit *Julian*, and having ever about him a little Silver Image of the *Carthaginian* Goddess, termed by them *Dea Caelestis*, placed this Image at the feet of the Statue, and lighting up Wax Candles, according to the Custom, then departed. From these Candles some sparks caught hold of some old and combustible things thereabout, in the dead time of the Night, when there were none to prevent it; and by degrees the Fire seized and consumed that lofty Fabric.

He and the Citizens of Antioch falling out.

He compiles his Antipogon or invective against them.

The Substance of it.

28. And this the more easily it might do, by occasion of the great Drought which now was so remarkable, that, though the Winter-Solstice was at hand, yet several Rivolets and Fountains also failed of Water, wherewith they had formerly abounded. Though the Season of the Year would not permit it long to hold, it was accompanied with a terrible Earthquake, wherewith, on the second of *December*, the remaining part of *Nicomedia* was overturned, and with it no small portion of the City of *Nice*. Though those Accidents perplexed *Julian*, yet his mind was no less intent upon the War, and Matters concurring to it; but, amongst such serious things, he, to no purpose, employed himself in bringing down the price of Vendible Commodities at *Antioch*, as we have before related, out of an Affection to Popularity, though such improper Constraint of Cheapness, be wont to cause great Scarcity, as *Ammianus* observes. Those of the Corporation demonstrated it could not be done, yet was he pertinacious in his Purpose, being of the Humour of *Gallus* his Brother, except in the point of Blood; and raging against them as Slanderees and contumacious Persons, he composed (this year following) an *Invective*, which he called *Antipogon, Beard-Hatter*, or the *Antiochian*, wherein he maliciously ripped up the Faults and Defects of the Citizens, adding to Truth very many things. So the Historian, but yet an *Antiochian* himself, censures the *Invective*; which being still extant amongst others of his Works, we must do both him and others that Right, as to take Notice of it. "He terms it a Poem in *Prose*, and for as much as it was neither fit for him nor any others to return ill to them by whom they had been injured, therewith any he pretends not to play upon such, but himself the Poet; for as much as no Law forbids one to write either Commendations or Dispraises of his own Person. To commend himself he tells you he could not, but if to discommend this Face, Nature her self had not been over kind, he through a certain Morose Humour had added to it a long Beard, as it were to punish it, and this for no other Fault, but because Nature had been no kinder to it. For this Reason he suffered Lice to run in it as Deer do in a Park; neither, for Fear of choking by Haives, could he either eat or drink plentifully; for as for what concerned kissing, he did not on that much insist, knowing that his Beard would not suffer his Lips to be joyned to others more delicious. And whereas they, the *Antiochians*, had said that Ropes were to be made of it, he was very willing they should do it, if the roughness of his Hairs would not hurt their tender and delicate Hands. But let any should think him to be moved by all these Reproaches (for herein he recites what they said of him) he would render an Account why he went so like a Goat; whereas he could have himself and be as smooth as beautiful Boyes or Women, on whom Nature her self had bestowed much Beauty and Comeliness. For they in their Age imitated their

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Ex qua apparet ram sagittae Ceteris Annone Confessio de his, qui quidem po- naria Juliano 130000 modiorum tritici Antiochensibus Largitus est, ut ipse & Libani in Epistola asserunt.

Τὸν δὲ ἄνθρωπον οὐκ ἔστιν ἰσχυρὸν ἀντιπαραστήσαντα.

Secl. 5. Children, and according to their delicate manner of living, and perhaps for the Simplicity of their manners, they shaved all off, and shewed themselves to be men, not as he did, by their Cheeks, but from their Foreheads.

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29. But not content with the length of his Beard, his Head was to boot out of Order, the Hair whereof he seldom cut; and as seldom he pared the Nayles of his Fingers, which were most commonly all black with Ink. And if they would needs know a Secret, his Breath was moreover rough with Hair, as bristly as were those of Lyons the King of Beasts; and if he had any Mole about him, he would tell them of it. But further he had to say, that he had not only such a kind of Body, but also he led a very austere Life, and very troublesome. The Theatre out of his great Folly, he frequented not; neither suffered a Play to be acted at Court, but at the Beginning of the Year, (such was the Stupidity of his Mind, (like a poor Husbandman that paid his Rent to some hard Landlord) and when he did that, he gave but little heed to what was acted; for he had no Possessions, though he had the Name of a great King throughout the World, not so much as a *Præfett* or Captain who commanded *Comedians* or Chariot-Drivers. All which, though they were figures sufficient of his morose Humour, yet he had one thing to tell them that was more new and wonderful. He hated the *Circenian* Games, as much as Debtors did Courts of Justice, therefore seldom came he at them but in the Days that were holy to his Gods, neither then did he there spend the whole day, as his Cousin, Uncle, and Brother were wont to do; but was glad to be gone after he had seen the sixth Course ran, and that with little Delight, nay on the contrary with much Trouble and Uneasiness. So much it sufficed to speak of external things, and yet in further Drollery he tells them, that this was nothing to the Injuries he did them over and besides, for as to his Domestic Life, he slept little by Night; and the small rest he took was upon a Pallet, and in eating he did not satisfy even Hunger, which way of Living made him Morose, and of an Humour quite contrary to the Effeminacy of *Antioch*. Yet would not he have them think, (the Poem he mixeth with serious Matter) that he did it to torment them; for a grievous and foolish Mistake, (you must know) and that from a very Boy, had induced him to wage War with his Belly. Hereupon it was that he would not suffer it to be satiated with Meat, and therefore very rarely did he vomit, to his Remembrance but once since he was made *Cæsar*, and that not from any Repletion, but it came by Chance. Upon this hung a Tale, which he would tell them, not out of Conceit that it would be pleasant to them, but wonderfully suited his Condition, and the Scene of this Comedy lay at his dear *Lutetia* or *Paris*, while there he abode in his Winter-Quarters. This Town he tells them is a River-Iland of no great Capacity. On both sides they passed to it by wooden Bridges; and as for the River it did not increase nor decrease; but as it was in Summer, in Winter it was found in the very same Condition. Water is afforded very pleasant and clear to the Eye of the Drinker, for it being an Island, there upon Necessity the Inhabitants were to get Water for the most part. The Winter was very gentle, by reason of the warmth of the Ocean (as was supposed) which was distant from it but nine hundred Furlongs, so that a mild Vapor thence seemed to be diffused, for the Water of the Sea is much more warm than the sweet, or that which ariseth out of Springs, or is taken from Rivers. Hereupon it was that the best sort of Vines there grew, and through their Industry they also had great Quantity of Figs, which in Winter they covered with Wheat-Straw, or such like Stuff, as they were wont to defend Trees against the Weather.

A description of Paris.

30. But when he lay there, the Winter was more sharp than ordinary, and the Frost laid as it were, a Bridge, over the River, of Ice much resembling the *Phrygian* Stone. There was he more stubborn and humourous than ever before; for he would not suffer a Fire to be made in his Chamber, according to the Custom of the Place, though it was very convenient for it; and thus it came to pass, through his Stubbornness, and, to speak truly, Inhumanity toward himself, out of a Resolution to use himself to that Air, so that though it grew colder and colder, he would not permit his Servants to make any Fire, for Fear he should stir the Moisture that was in the Walls; only he let them bring a little Charcoal or some Wood thoroughly kindled, with which, though very small was the Quantity, a Damp was raised from the Walls, which filled his Head with Vapours so as to make him drowsy; and indeed he was, in great Fear he should be suffocated. Thereupon he was taken

Sec. 5. suddenly out of his Chamber, and his Physicians advised him to vomit up^{4. D.} his Supper, which he did, but no great Quantity; for much he had not eat.^{362.} en; but he was better after it, had a reasonable good Night, and was fit for any Business the day following. After this Parilian Story, he falls in direct terms, though in a jeering and drolling Vein, upon the *Antiochians*, telling them that the Rufficity of the *Galls* could easily bear his Humour, but a rich flourishing and populous City as was theirs, in which there were more Dancers, Fiddlers and Players than Citizens, but no respect nor Modesty shewn toward Princes, would not endure it. Lazy and luxurious Persons might be ashamed to do, what it was lawful for them, being so gallant and valiant Persons, to practise; as to spend both Morning and Night in Revelings, and by Deeds, not words, to demonstrate that they had small Regard to the Laws: although Laws are made for the Sake of Princes, and he that injures a Prince doth fill much more offer violence to the Laws. But this was their Practice, (both of Magistrates and People) in the *Forum* and Theatre, and all agreed together in being spruce and neat, and setting more by their Bathes, their gay Cloaths and rich Beds, than by Justice and Honesty. And matters thus standing he makes them ask the Question of himself, whether he thinks that that his Rufficity, Inhumanity and Rigidness can well agree with these Pleasures and Delights, of the Place, and whether he be so silly as to imagine that his little Soul can be adorn'd and accomplished by Temperance? For, first for Temperance what it was they knew not, only they had heard of the Name. Indeed if it was that which he endeavour'd after, it consisted in Obedience to the Gods and the Laws, in living in equal Right with ones Equals, if a man was excellent in any thing yet to carry it humbly, in taking care to provide that the Poor should not be oppress'd by the Rich, in bearing all sorts of Troubles patiently, as Enmities and Reproaches; without indulging ones Anger or Revenge; in governing and correcting ones Passions; and (if that may be accounted a sort of Temperance) in abstaining openly from all pleasure though otherwise neither dishonest nor scandalous; for as for him, he was of Opinion, that *No man ought to be esteemed as Temperate at home, who was dissolute abroad and took Pleasure in the Theatres.* If this be Temperance, then he ruins both himself and them, who cannot endure so much as to hear the name of *Subjection*, neither towards the Gods nor towards the Laws; Liberty being sweet in all Cases.

31. After this he feigns them still railing upon him for his Dissimulation, in that he denied himself to be their Lord; would not endure that Name, nay, was angry if he had it, inasmuch that many through his Procurement had left that word out of all Matters relating to the Empire; however formerly accustomed to it; and yet he compelled them to be Slaves to the Magistrates and the Laws: how much better would it be for him to admit the Name of Lord, and indeed and in Reality suffer them to be Free-men. But this he was so far from, that he undid them, by confining the Rich in Courts of Justice, to use moderate Courses; by depriving the Poor of the Liberty of calumniating their Betters, and by putting away Stage-Players, Dancers and the like, so that they received no good at his Hands, except it was this, that having indulged this odious Severity now seven Moneths, they had committed Vows and Prayers, to be freed from such Mischiefs, to the Management of old Women that were conversant about the Tombs of dead men. And further had the Satisfaction of their Jest and Taunts to wound him no less, than with so many Darts. What Follows is to the same Purpose, driving at this manifold Variety of drolling, to represent himself as a most virtuous Person, one practised in the highest Degree of Philosophy, and the Citizens of *Antioch*, as Enemies to him upon this Account, and esteeming it slavery to be Subject to the Gods (as he calls them) to the Laws, or him; and as so governing their Wives and Children, as to give them Liberty to do what they listed, and train them up even to Rebellion. Further having received some Taunts not only in Reference to his Beard and affected Clownishness, but his Opposition to Christian Religion, he endeavours in the same way to answer such Matters as were objected upon that Account. It was a common Saying amongst them, that *Chi* and *Kappa* had done no Hurt to the City though he had injured both the City and them. He tells them it was hard to unfold this Riddle, but having got some Interpreters of their own, he had learnt the beginning of some Names to be signified by these Letters; as by the

Sec. 5. the one that of *Christ*, and the other that of *Constantius*. To this he replies^{4. D.} that in one thing only *Constantius* had done them an Injury, that when he^{362.} made him *Cæsar* he had not put him to Death. And as for other Matters, he wishes that to them only of all *Roman* Subjects the Gods would give many *Constantii*, or rather to be made lyaible to the Rapines of his Favorites. In Reference to what had passed between them two, *Constantius* was his Kinsman and his Friend, and after he chose to be his Enemy, and the Gods had decided the Quarrel very favourably on his Side, he was a more faithful Friend to him than before they fell out he could have expected to find him. And therefore he demands why they should think he was ill pleased to hear him well spoken of, when as he was angry with any one that discomfited him. He perceives they had chosen *Christ* for their Tutelary Deity, in the room of *Jupiter Dapheus* and *Calliope*: gives those that professed his Religion the Title of *Gallians* (in which he prides himself and thinks he meets with them in all his Writings) most impiously calls it the Sect of Impiety, and adds that the greatest part of the People, nay indeed all, embracing that Sect was angry with him for owning the Religion of their Fore-fathers, and adhering to it. That the Rich were displeased, for being prohibited the Sale of their Commodities at too dear a Rate, and all in General out of Respect to the Dancers and Stageplayers; not for that he had wholly deprived them of the Use of such, but regarded them less than the Frogs that croaked in the Fens.

32. But he comforts himself with a Story of *Cato*, who had been formerly offended with the Idleness and Luxury of the *Antiochians*, and exclaimed against the Place as a miserable City upon that Account. Now he tells them, like a pleasant Droll, that they must not wonder at him if he had the Misfortune, being of a more rough Humour than *Cato* himself, and one that exceeded him as much in blunt Boldness as the *Galls* did the *Romans*. For *Cato* being born at *Rome*, converse with his own Fellow Citizens all his Life; whereas he, as soon as ever he could write man, was sent away to the *Galls*, *Germans* and into the *Heremian* Forrest, where he spent his Time as it were in hunting and waging War with wild Beasts; and thence contracted an Humour which very ill befitted a Courtier; could not flatter, but was only skilled in living plainly and freely with all men. Before that he had such Education as was fit for Childhood, he had been trained up in the Books of *Plato* and *Aristotle*, at such years as were more proper for a delicious kind of Life, and he infits very much upon it to declare how his Master laboured to show him the Vanity as off of all Pleasure in general, so of the Sports and Plays which were usually seen on the Theatre. When a full man grown and preferred, he had lived according to his own Way and Rule with most fierce and Warlike Nations who knew *Venus* and *Bacchus* no further, than for the Sake of Marriage and Procreation; And drinking only so much Wine as was agreeable, and might lawfully be used; where no Obscenity was practised on Theatres, nor Mimicks trode upon the Stage. But these Nations (the *Galls* he means) so loved him for his agreeable Disposition, that not only they took up Arms in his Behalf, but gave him Money, and often forced him to receive it, and what was best of all, they were obedient to him in all things. Thence, faith he, it came to pass, that my Name with great Glory and Renown sounded in your Ears, and they all proclaimed me to be a Valiant, Prudent and Just Person, who knew not only how to govern in War, but in Peace also; and moreover they said: I was easie of Access and Gentle. But you, the *Antiochians* have treated me in a quite contrary Manner. You say I have overturned the World, whereas I know nothing one way or other subverted by me: then, that Ropes may be made of my Beard; and lastly, that I have denounced War against *Chi* and with I may do it against *Kappa* too. To what he acted against *Christianity*, he opposeth what they had practised against *Paganisme*, and relates some Passages, which, in the Place proper to them, must not be omitted. In the latter End of his Poem, from drolling he defends to down right and most earnest Expostulation, and shews himself most grievously nettled with the stinging Letters that were cast abroad.

33. Yet this he tells them they might freely do, for he would neither cause them to be killed, beaten, nor imprisoned for so doing. But to continue his Expostulation, he further urges the Mildness and Modesty both of himself and his most familiar Officers. Neither he nor they had meddled with their Lands or

Sect. 5. Estates, nor been at all taken with those they esteemed very fine things amongst them; they had neither abused their Magistrates, nor suffered them to abuse the Citizens, but to the City been the Authors of Immunity and great Plenty, and thereby afforded Leisure even to such as had Libelled against them. No Silver nor Gold had been exacted, nor Tributes increased, but besides Arrears, a fifth part of the usual Customs and Imposts had been remitted; for, not thinking it sufficient to be indulgent this way himself, he had got an Officer that managed such Matters, the most moderate and abstinent of all others, though they abused him for the Hair of his Head, as well as they did his Master for his Beard. Moreover, he had five more, that were near him, fully as virtuous as he, whereof the one was his Uncle of the same Name with himself, who had, with great Justice and Moderation, formerly governed them of *Antioch*, and, though with no great Prudence, ordered the Affairs of the City. By such Courts as those he thought he might sufficiently approve himself, and seem lovely enough to their Eyes; but seeing at length the Neglect of his Hair, his Hatred to the *Spectacula*, his Endeavour to preserve Gravity and Decorum in Temples, his Care to maintain Justice in Courts, and his Desire thence to banish Avarice, had so much set them against him, he would very willingly be gone from them; for as much as he could scarcely expect that with Age and Continuance his Humour would be sweetened, and here he tells them a Fable of the Kite, who having once had a Voice like other Birds, would not therewith be contented, but must needs endeavour to neigh like an Horse, and by endeavouring after the latter, lost the former Faculty, and became inferior to all his winged Brethren; which case would be his; for, endeavouring to be courtly, if he should miss of his Courtship he might also possibly fail of down right dealing.

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34. And now he turns down right indeed, conjuring them by his Immortal Gods, by *Jove* the President of the *Forum*, and Keeper of the City, to tell him what Cause they had to show themselves so ingrateful and bitter against him. He demands what Injury either publicly or privately he had done them, that not otherwise able to hurt him they daily so reviled him in the *Forum*, whom though it was in his Power sufficiently to hurt, in a larger way of retaliation, yet he chose to return them their own, in their own way of Invektive, though formerly he had been so far from any such thing that he had studied their Commendation, so far as stood with the Prudence of an Emperor. He had laboured to deserve well of all; though it was impossible to please every individual man, or the City it self in every individual thing. For, to such as paid Customs, all Duties of that kind could not be remitted; nor all given, to those Officers that were employed to receive them; but he had kept a Mean, so as to require what was necessary for the Publick Expence, and also been very bountiful in remitting of Tributes where he saw convenient. Out of his great Kindness and desire to deserve well of them, though they were the last of Cities that sent to congratulate him, yet had he forgiven them far more Money than to any others; and, besides, had increased the number of their *Senators* or *Decuriones* to two hundred; and not spared his own Officers, but given up those that were employed in his Revenue, to undergo the Burthens of their Corporation. But whereas out of his Design to make their Corporation on greater and richer, he had endeavoured to fill their Court with able men, they had taken another Course, which indeed better suited with an ill tempered City and their own universal Demeanour: and he instances in a pitifully beggarly Fellow they had chosen, but such an one, as through the great Prudence of them, the City Governours, made merchandise for them, of the miserable ordinary People. Now because he would not suffer them thus filly and knavishly to manage their Elections, he had lost utterly all thanks for his former Favours, and they were angry with him. But yet this was not the thing that rendred them so implacable; there was another Matter of greater Concernment. When he came first to Town the ordinary sort being oppressed by the Rich, received him with Clamours against the Dearth of Victuals. The day following he discoursed with some of the better sort and endeavoured to persuade them, that omitting their universal Exactions they would consult the Good of their own People and Strangers both, which they promised should be done. Hereupon he made no more stir about it; but for three Months expected the Performance of their Promise; but then perceiving the Complaint of the Poor not to have been without Reason, and that indeed there

was

Sect. 5. was not such Scarcity of Provisions as was pretended, but the Avarice of the Rich was the greatest Cause of the Mischief, he set a moderate Price upon Commodities by a publick Edict.

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35. And whereas the Grain of which there was any real Want, was Wheat, caused by the great Drought of the preceding year, he sent and procured a Supply from *Chalcedon*, *Hierapolis* and other neighbouring Cities, to the Value of four thousand Measures; which being spent, he furnished them first with five, then with seven, and afterward with ten thousand *Modii*, out of his own Granaries which had been sent him from *Egypt*, and took for every fifteen Measures but the Rate they were wont to pay for ten, viz. one *Aureus*. Hereupon ensued Plenty of Bread; not only for those in the Town, but Country too, who flock- ed to buy it, with which the richer sort were so ill pleased that their Trade failing them at home, they sold their Corn into Foreign Parts, and hence must necessarily follow a Famine in Winter, and the same Price must be paid for five as now were for fifteen Measures. However he thought he had done very well; and further, as should appear from the latter End of his Invektive, which is something difficult to be understood, as he had by his Care made Plenty of Wheat, so by an Edict he had lessened the Prices of other Commodities, as Wine, Oyl, and other things; whereupon the rich Merchant who trafficked in such Matters, kept them up and would not sell them; which again caused the Emperor to be rail'd on, though he had done it for Relief of the Poor, and for the Ease of those Strangers which flocked to the City upon his Account, as also of the Magistrates and Judges that attended him. But now he tells the *Antiochians* that since those Persons were returned home, and all the City had bandied against him, some out of Hatred, and others whom he had provided for, out of Ingratitude, he would commit all to Fate, and get him gone to some other People; not upbraiding them with what had hapned ten years before, when in a Tumult the People had offered Violence to the Magistrate. Yet he cannot but again ask the Question, for what Reason they were so violently bent against him? If it was because he had fed them at his own house, which hitherto had not been indulged to any City, and that so plentifully and magnificently? If it was because he had increased the Number of their Corporation? Or for that he had punished such Thieves as he had found amongst them, according to their Merits? There were three thousand Acres of Lands, it seems of that sort called *Caducea*, or for want of Heirs fallen to him, and these Grounds being, as they said Barren, they had begged of him. When they had got them, the richer sort justified out the Poor, and kept them to their own Use, which he having understood, took them from those that had no Right to them, and appropriated the best of them to those common Expenses of the City which were of greatest Burthen and Concernment. And now, faith he, you that keep Horses all the year, have the Common of almost three thousand Acres partly through the Prudence and Diligence of mine Uncle *Julian* and partly by the Bounty of my self, who having in this Manner chastised Thieves and Cheates, may very well be said by you to overturn the World; for Lenity and Clemency toward such as these, believe me, do cause the Naughtiness of men to increase. Wherefore now I come to what I would be at. I my self am Author of all these Mischiefs, in being bountiful to ingrateful Persons. And therefore all is to be attributed to mine own Folly, and not your Freedom. And therefore for the time to come, I will endeavour to be more prudent and cautious in my Carriage toward you; and I pray the Gods will requite you suitably, for the Honour and Good Will, which I have publicly found at your hands.

36. Thus doth *Julian* end in earnest, however he began in Jest, his bitter but most elegant Invektive. The Pluck the *Antiochians* gave him by the Beard, did so much twit him, that it made the Tears stand in his Eyes, however he thought to put it off with Laughter. The Substance of the whole Invektive we have given, though the Length thereof be somewhat improper, because it gives Light to the Laws and History of this Prince, and possibly discovers something of his Humour, which this Passage betwixt him and the *Antiochians*, if you will believe a Native of this Place, *Amianus*, seems well to make out, in that he saith he was willful and not to be diverted from his Purpose, being like to his Brother *Gallus*, although not bloody. That he did not indulge his Passion in Killing, Beating or Imprisoning his Subjects (as he tells them he would not) for libelling against him, and reviling him in the *Forum*, he is really, nay much to be commended for his Clemency; for the

Laws

Considerations upon his Invektive.

His Julius
Vespasian
Rites, Edict
Frater antia
Fratellus
grati parati,
Vallia Comae
Orientalis, Mac-
certaino & M-
sita coelo. Vi-
de Vespasian in
Act. ad p. 237.
Amianus.

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Laws was very severe in such kind of Offences, though committed against private men. But as to the Merits of the Cause, and Controversie betwixt him and the City, although his deserving well of them as to several Indulgences ought to be acknowledged, yet an indifferent Judge is rather to hear others, than either of the Parties concerned. The great Matter of Offence and Enmity betwixt them was that of the Provisions, or his bringing down the Price of Commodities, which, however he said he did it out of a good Intention, yet *Ammianus* tells us it was out of Love to Popularity; and that unreasonable or forced Cheapness, is often the Cause of great Want: As also that the Corporation openly shewed to him, that the thing could not be effected; and yet he persevered in his Humour. Another matter about which they differed was the Filling of the Courts, and though they might be in the Error as to that particular Person he mentions, yet if we give Credit to the same *Ammianus*, who was also his no small Friend, we must believe him in this point to have been much to blame, and guilty of the greatest Error (in civil Matters) committed during his Government; for however he boasts of his filling up the Number of the *Decuriones* to two hundred, this Writer tells us, that right or wrong he compelled Persons to these Services, and therefore herein he overdid, and they that understood them and were upon the Place, and had been exercised themselves in them, were the ablest to distinguish of fit Persons. So stood the Case, and the Cause of the misunderstanding; as to the Effects thereof, *viz.* Invections, Libels and Railing on both sides, there is no Excuse to be made, if we consult the Equity as well as the Rigour of the Laws, as we said, on their part. But that his Affectation made him ridiculous is evident enough from the Testimonies of his Friends: his Affectation as to Philosophy and Eloquence was vehement, and this caused him both to wear to great a Beard (though an Emperor and a professed Philosopher vastly differed) to pride himself in it, and write this Invection as an Apology for it; for considering his Humour, this gratified his Affectation and this way of Revenge pleased him ten times more than Cruelty could have done; for there did not lie his Temptation at this time. As for what he returns upon them; which is their Luxury, and that the Hatred they bore him proceeded from the Aversion they had to his Virtue, or the Strictness of his Life; if such it was, as he sets it forth, the Love and Respect they bore to *Chi* and *Kappa* will not bear them out in it; the Principles of *Christian* Religion more than of any other, (more than those of his Superstition) contradicting all Excess in any kind. But *quod dicitur* *Ammianus* an *Antiochian* gives us an heavier Censure of his *Misopogon*, (yet possibly something concerned for his Country, though an Eye-witness it may easily be granted of all those Passages) that reckoning up with malicious minde the Faults of the City, *He added many things to the Truth*. However, lest we should be suspected of this other Extreme, in not relating the best, he saith for his own Advantage, we have chosen to trespass in being tedious upon this Subject.

35. Notwithstanding, he still found many things facetiously said against him, which though he was constrained to dissemble, inwardly he swelled with Anger. For they laugh at him as a *Cæcrop*, a kind of Dwarf, stretching out his Shoulders, thrusting forth his Goats Beard, and yet strutting like some Brother of *Onus* and *Ephialtes*, the Tallness of whom *Homer* vastly extolled; They termed him *Vidmarinus* in Reference to the Multitudes of his Sacrifices; and that deservedly; for out of Ostentation he prided himself in carrying Obligations or such like things, as the Priests used to do, attended on by his Women. Though he inwardly fretted for being twitted for this Vanity, yet he concealed his Indignation so far as to finish the Solemnities. On a certain Festival he ascended the Woody and steep Mountain *Capus*, whereon at the second Cocks Crow, the Sun was to be seen; and there, as he was sacrificing to *Jupiter*, he espied a Man lying prostrate on the Ground, who begged his Life and Pardon at his Hands. Upon Enquiry he found it was one *Theodorus* of *Hierapolis*, who having amongst the *Hæmorrhoids*, or those who had borne Civil Offices, brought *Constantinus* on his way from the City, basely flattered him, and with feigned Teares and Groans besought him, as one who without any Doubt would prove Victorious, to lend them the Head of *Julian* that ingrateful Traytor, in the same manner as he remembered that of *Magenentius* to have been carried about in Triumph. To this Request, he answered that he had heard from many how guilty he had been as to this Matter, but bade him go in safety to his own House, and live free from all Fear, through the Clemency of the Prince,

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who as a prudent Man, had determined and was very ready to diminish the number of his Enemies and increase that of his Friends. Having finished his Devotions and departed thence, he received Letters from the *Præfēt* of *Aegypt* wherein was signified the joyful News, that *Apis* the Ox having been fought for with great Labour and Diligence, was found; which the Inhabitants of the Country reputed a lucky Sign of a fruitful Year, and diverse other Advantages. But the present year thus ended, or that of the *Consulship* of *Mamertinus* and *Neutia*. In that which followed, he took the Title the fourth time, and for his Colleague assumed *Sallust* the *Præfēt* *Pretorio* of *Gall*, which had not been known of a long time of the Emperor should be joyed with a meer Subject, *viz.* since the *Consulship* of *Diocletian*, and *Aristobulus*, as *Ammianus* writes, but by a Mistake. And this his fourth *Consulship*, he resolved to render famous to Posterity by Acts of no small Moment. Besides his Preparations for the *Persian* War, he forgot not his Enemies *Chi* and *Kappa*, though in a more clandestine and cunning way as yet he acted against the Followers of the Former. If he could restore the Temple of *Hierusalem*, the old Services and Sacrifices of the Religion once practised there, it would be a great means and Argument against the Growth and Truth of Christianity, which was supposed to succeed it, and arise upon the Ruines thereof. This he was resolved to do whatever it cost him, and committed the Care of rebuilding the Temple there to *Alypius* an *Antiochian*, who had formerly commanded here in *Britain*. And *Alypius* earnestly prosecuted the Work, and was therein assisted by the Governour of that Province; but (it is *Ammianus* that tells you) dreadful Balls of Fire broke out from the Ground where the Foundations were laid, and consuming the Works made the Place inaccessible, and so the Element making vigorous Resistance, the Design miscarried. Of which more hereafter.

38. Now was he complemented from the Senate of Rome, by Persons of considerable Nobility and Merit, whom he accordingly rewarded. *Apronianus* he preferred to be *Præfēt* of that City, *Odavianus* to be *Proconsul* of *Africk*; and *Vennusius* of the *East*, in the room of his Uncle *Julian* lately deceased. But being so wonderfully superstitious he was now terrified by divers unlucky Signs, as he and his esteemed them. *Felix*, you must know, the *Comes Largitionum* suddenly died of Bleeding, and him *Julian*, *Comes* of the *East*, not long after followed. Now the Common People looking upon the Titles of the Emperor, on Purpose or unwittingly, or it's not material how, read and spake thus: *Julianus*, *Felix*, *Augustus*; for amongst the ordinary Titles *Felix* came in and usually preceded *Augustus*; so that it was taken as ominous, that he who was *Augustus* and *Felix* should be reckon'd with *Felix*, and with *Julian* too, both who were dead. When he entered the Temple of the *Genius*, one of the elder Priests suddenly fell down dead, which his Flatterers near him interpreted to portend the Death of the elder *Consul*, but it rather signified that *Consul* who excelled in Power more than Age, as the Event showed: moreover *Constantinople* was shaken with an Earthquake, and the Books of *Syballa* at Rome forbade the Emperor to go beyond his own Territories this year, all which were accounted unlucky; and used as Arguments to dissuade him from the Expedition; but in Vain. As he could not be utterly discouraged by those Passages so neither receive any greater Encouragement from the Offers now made him of Assistance by many Nations; the Ambassadors of whom he sent back with this Answer, that it did not become the *Roman* Empire to thrive by the Accession of Foreign Aid; but to assist its Friends and Allies in their Necessity. Only *Araces*, King of *Armenia*, he commanded with a sufficient Power to attend his Motions, and expect such Orders as he should shortly send him. Then did he, ere Spring was advanced to the Height, send the Command for his Forces to pass *Euphrates*; which accordingly they did, and being quartered about as Convenience directed expected the coming of their Emperor from *Antioch*.

39. Before we fetch him thence, we must enquire what he did farther there the Beginning of this year, supposing him employed in more Affairs that what related to the Imposition of his *Misopogon*. But several Matters therein contained, whether said by the *Antiochian* or himself, we find still explained, limited or confirmed by other Laws he made before his Departure. Though he was so indulgent to that City, as he saith himself in Relation to Tributes remitted to them, and Grounds given them; yet it concerned him to have a Care of the publick Revenue, and that this he had, we find by two Laws made for Prevention of Abuses in this kind; for when Grounds were sold; sometimes the Vendor or Gi-

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Julian A. A.

Sallustia

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Cof.

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Sec. 5. ver to every man. The Foot he committed to the leading of *Victor's* and the Horse to the Conduct of *Hormisdas* a *Persian*, whom the King his Brother having very injuriously treated, he had fled to *Constantine*, and after several ample Testimonies of his Fidelity, been preferred to great Commands; but yet with him he thought fit to joyn *Arintheus*. Having accepted the Aid which the *Saracens* willingly offered, he marched for *Cercussum* (in the Scripture *Carchemish*) which he entered in the Beginning of *April*. This was now a very strong and neat Town, the Walls whereof were strengthened by the Rivers *Abora* and *Euphrates*, which circled it in the Fashion of an Island: for formerly being little and weak, *Dioclesian* had fortified it with Walls and Turrets at such time, as he ordained more inward Limits upon the Confines, to prevent the Incursions of the *Persians*, who had lately done very great Damage to the Provinces. While *Julian* here lay and employed himself in passing his Army over *Avora*, he received sad Letters from *Sallust* the *Præfekt* of *Gall*, who intreated him thereby to suspend his Expedition against the *Parthians*; nay most earnestly besought him, that he would not so preposterously thrust himself upon certain Destruction, the Divine Powers not being yet pacified. But he neglected this wholesome Advice, and pressed forward rather with more Confidence; for that *Ammianus* tells us, no humane Power or Virtue ever yet could merit, that what Fate had ordained, should not come to pass; and being got over, he caused the Bridge to be broken down, that his men might perceive all Hope of Flight to be cut off. He passed on (as *Ammianus*, who himself was present in this Expedition, and therefore is our best and sufficient Guide in the History of it, writes) and came to a Place called *Zaita*, which signifieth an Olive-Tree, where they saw the *Tumulus* or Hill raised in Memory of the Emperor *Gordian*, to whom being consecrated, out of his innate Piety, as this Writer words it, he made a Parentation; and so proceeded to *Dura* a Town depopulated. Here beholding afar off as he thought, a Band of Men, he made an Alt, and standing in a Mule to think how he should order his Matters, a Lion of a vast Bigness presented himself to the Army, and by it was quickly dispatched. Hereat he conceived great Hope and Courage, though the Event shewed it was without sufficient Ground. Our Writer tells you, that indeed, by this Accident the Death of a King was fore-shewn, but of which, it was utterly uncertain. That the Oracles themselves in such Cases were doubtful, he declares; as in the matter of *Cæsar*, the *Athenians* when they fought against the *Persians*, and of *Pyrrhus* in his War against the *Romans*. The *Hebruscan* *Aruspices* produced their Books, and thence shewed such a Token to be fatal to him that invaded the Territories of others, though upon never so just Grounds, but were run down by the Philosophers, who had the greater Authority with him, and were peremptory in those things they did not understand. They urged indeed that when *Maximian*, while yet *Cæsar*, was about to engage with *Narjes* King of *Persia*, a Lion in like Manner and a great Boar appeared, and were killed; and he went away with the Victory; but the Case differed; for Destruction was portended to (marke) him that unjustly made the Invasion; which was *Narjes* who first invaded *Armenia*, subject at that time to the *Romans*.

43. The day following, being the seventh day of *April*, by intervention of a Cloud, hapned great Darkness, Thunder and Lightning, and therewith a Souldier named *Jovian*, was struck dead, as he was leading two Horses from watering. This confirmed the Wizards in their former Opinion, who, by Books of Thunder, shewed, that Thunder it self was to be taken for a Councillor, and when a man, of so great a Name, was so killed with Horses, which are the great Helps for carrying on War, it evidently signified that the Place and Country where such a thing happened, was, as dangerous, to be quitted. On the contrary the Philosophers affirmed that the Lightning signified nothing at all; but was a fierce Vapour by some Force or other thrust down from the Clouds; or if any thing was meant by it, it must be *Brightness* and *Glory*, signified thereby as accruing to the Emperor from the Enterprize he had undertaken, flame of it's own Nature ever tending upward. The Profession of the Philosophers and their Opinion most suiting *Julian's* Humour, he easily closed with them therein, and now made an Oration to the Army, furnished with several ancient Stories of the greatest Commanders who had achieved as well against the *Persians* as others, by their Valour and Affection to their Country, especially through the good Will and Resolution of their Souldiers, very great things; which now by their Assistance he was resolved to imitate in this Affair; wherein he had this present Advantage of Justice on his side, that as they were prompted to what they did, by martial Glory; he was compelled to repair those

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Sallust writes to him, to dissuade him from the Parthian War.

He is amused by several Accidents.

By a Speech he encourages his Men.

Sec. 5. Losses, and revenge those Injuries which the *Roman* Provinces had of late years sustained. With his Discourse they were so animated, that considering both his former Services in *Gall*, and his present Alacrity to endure all hardship, even as far as the Condition of a private Souldier required, they embraced his Advice: with all cheerfulness, and resolved to obey his Commands to the utmost. The undaunted Resolution of Emperor and Army thus manifested and mutually applauded, he entered the *Affrian* Borders; where fearing to fall into some Ambush, he drew his men into four square Bodies, and appointed fifteen hundred as a Forlorn to march both before and on both sides; to give warning upon all Occasions. He himself led the main Body of Foot, being the Strength of the Army. On the right Hand he commanded certain Legions to march by the River *Euphrates*; under Conduct of *Nesia*. The left Wing he committed, with some Troops of Horses, to *Arintheus* and *Hormisdas*, to be led through the Plains and Marishes: And the Rere was commanded by *Dagalaiphus*, *Victor*, and *Secundinus*, the *Dux* of *Osdrunna*. To strike a greater Terror into the Enemy, he enlarged his Ranks; and caused his Army to appear much more numerous than it was; so that the Front was well nigh distant from the Rere, the Space of ten Miles, in which Art both of enlarging and contracting an Army when the Stratagem required, *Pyrrhus* King of *Epyrus* was most excellent. And the Baggage he placed so within the Wings, that all Danger by sudden Incursions, might be prevented. As for his Fleet, he ordered it to keep as near as could be, that the Army and it might afford mutual Assistance and Protection to each other.

44. Proceeding after this manner for three days, they approached *Dura*, a desolate City upon the River; whence journeying, after four dayes more, they attacked a Fort called *Anubas*, standing in an Illet in *Euphrates*; and stormed it merrily by Language; for those within were persuaded to yield, which they did by driving out before them an Oxe with a Garland on his Head, with them the usual Signal of Peace. The Emperor caused the Fort to be burnt. *Pufus* the Governour was rewarded with the Place of a Tribune, and afterward was preferred to be *Dux* of *Aegypt*; the rest were sent away with their Moveables to *Chalcis*, a City of *Syria*. Amongst them was found a *Roman* Souldier, who, when *Maximian* made an Inroad into these Countries, had been left behind by reason of Sickness; then a very young man. But afterwards he took several Wives, according to the Custom of the Place, and now very Aged, with a Numerous Issue, to his great joy was carried homewards; affirming with the testimony of several Hearers, that he had foretold, how near to an hundred years old, he should at length be buried in the *Roman* Territories. After this, the Scouts of the *Saracens* brought some Prisoners to the Emperor, who, glad at the sight, sent them back again upon the like Errand. The day following much Damage happened to the Army by a furious Tempest, and shortly after, by the breaking out of the River, which, whether it proceeded from some Natural Cause, or the Design of the Enemy, was uncertain. The further they passed, the greater danger they being to meet with, the Emperor in Person rode before, to see that all was clear; and sometimes came behind, as there was occasion, and some Forts they took in their passage, and others refused to submit, about which he thought it not worth his labour to spend much time; but he commanded the fruitful Country to be wasted. One Town they took, called *Osogardana*, which, upon their approach, the Inhabitants had forsaken, and here was a Tribunal of *Trajan* still to be seen. Admiring that all this while he should meet with no opposition, his Wonder now presently ceased; for, having sent out *Hormisdas*, who best knew the Country, to make a discovery how matters stood, the *Saracen* (for this, *Zosimus* tell us, was the Name of Magistracy, not of a man) the highest in Power next to the King, and *Malchus* *Podagaces*, the *Philarchus* of the *Saracens* called *Assanites*, watched the opportunity of intrapping him; and had done it, but that a branch of the River, swollen above the usual proportion, hindered their passage. Being discovered, a Party turned head against them, and, after some skirmishing, forced them to retire.

45. The Souldiers, encouraged with this Success, marched more cheerfully to a Place called *Maceprada*, where were seen the Ruins of Walls, formerly of great length, and built for the Defence of *Affria* from Foreign Invasions. And here, the River being divided, a branch of it running up into the more inward Tracts lying about *Babylon*, the Army with some difficulty got over; the Enemy making opposition on the farther Bank, till diverted by *Victor*, whom *Julian* caused to cross it for that purpose. This Difficulty conquer'd, they met with a greater, at a City called by *Ammianus*, *Pyrsabora*, by *Zosimus* *Borjabora*) very strongly fortified by Nature,

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ture, and the Resolution of the Inhabitants. Here no Language would do the work, for, all the Arguments of *Hormisdas* they rejected, reviling him as a Traitor to his Country. Neither would downright Force prevail; though the Emperor in Person ventured to break open a Gate, with as much Danger and Courage, as *Amianus* had read *Scipio Emilianus* to have undergone and practised at the taking of *Carthage*; till at last he gave order for that sort of Engine to be mounted, which having the name of *Heliopis*, obtained, by the great Execution it did, the Title of *Polioreetes* for *Demetrius*. Affrighted at the sight of so great a Machine, which both by its height and strength, they perceived would surmount their strongest Towers, they cried out for pardon, and obtained it, being in number two thousand and five hundred; for the rest, apprehending the storm, had removed themselves into a safer Place by Water. The taking of it, after two days Siege, being a City, and the greatest in *Affyria*, next *Ctesiphon*, brought Reputation, and was very salubrious for there was found plenty of Victuals and Arms, which being taken away, Fire was then set to it. The following day, as the Emperor sat at Meat, word was brought him that the *Surenas* had fallen upon three Companies of the Scouts, and having slain some few, amongst whom, one Tribune, had taken a Banner or Ensign. Hereupon, in a great rage, he arose; went thither with his Guard, and having easily constrained the Enemy to retire, cashiered the other two Tribunes as Cowards; and ten of the Souldiers that had fled, he caused to be put to death, according to the ancient Martial Law in such cases practised. Then did he ascend the Tribunal, and gave thanks to the Army for what was already well performed, exhorting them to be constant in the like Achievements, and promised them for a Donative an hundred *Nummi* a man. But they disdained the Sum, as contemptible, and began to grow tumultuous; which perceiving, he shewed both his Indignation and Gravity, in another Speech, to this purpose:

His Army,
growing muti-
cious,

He reduceth
by a Speech.

46. Consider, faith he, that the *Persians* abound with all things, and therefore the Wealth of this Nation will sufficiently enrich us if we unite in Affection, and valiantly demean our selves. Believe me, the *Roman* Commonwealth, from vastly rich, is become exceeding poor, by the means of those, who to increase their own private Wealth, have instructed Princes, how, by Gold, to purchase Ease and Quiet from the *Barbarians*; and so to return home. The Treasury is emptied, the Cities exhausted, and the Provinces harassed. I have neither any Treasure of mine own, nor Kindred to supply me, though Nobly defended; only a Bread that is void of all fear; neither shall an Emperor, who placeth all that's Excellent in the Ornament of the Mind, be ashamed to own honest Poverty. For the *Fabritii*, poor in Estate, managed very great Wars, and were rich in Glory. We shall also abound with all good things, if you carry your selves courageously and modestly, under the Conduct of God and my self, who shall Govern you with as great circumspection, as Humane Reason will allow of; but if you will be Mutinous, proceed in your way, I, for my part, as becomes an Emperor, having alone finished a course of so great things incumbent on me, will dye standing, and contemning that Life which some pitiful Fever, however, may take from me: Or, truly, I can quit my Place: For I have not so lived, but I can easily return to a Private Condition: And, I may boast, that here are present most excellent Commanders, of perfect Experience and Skill in all matters relating to War. With this mild, yet resolute Speech, the Souldiers were satisfied for the time, and, being encouraged by persuasion of better things, promised Obedience, and, with universal consent, extolled his Authority and greatness of Spirit to the Skies. And he animated them daily by these kinds of Sayings; So let me subdue the *Persians*. So let me repair the tottering Condition of the Roman State; in like manner as *Trajan* was wont to swear, So let me see once *Dacia* brought into the form of a Province; so let me lay Bridges over *Ister* and *Euphrates*. Thence, after a march of fourteen miles, they came to a low ground, which, the *Persians* having notice they would pass, drowned, by opening the Sluces, so that with great difficulty they got over, by many little Bridges, Bladders, and light Boats. Then, being way-laid by the Enemy, who discharged many showers of Arrows upon the Flanks, the Army came near a Place where *Euphrates* divides it self into many Rivulets; and here they found a City forsaken of its Inhabitants the *Jews*, who would not trust to the weakness of the Walls, and the Souldiers out of Anger burnt it. Arriving at length at *Maiozamalcha*, a great City, fortified by strong Walls; before it they encamped; and the Emperor, knowing the Enemies Horse to be accounted terrible in these Champion Countreys, took all care possible to prevent its sudden Incurfions.

47. This done, with a few *Velites* in his Company, he went on Foot to view the Town, and thereby cast himself into extreme Danger; for, ten *Persians*, armed at all Points, issuing out at a Poster, fell on him and his Company, and two of them, knowing him by his Habit, made it their Business to dispatch him; but he received the Blows upon his Target, ran one of them into the side, and the other was killed by his Followers. Of the rest some were wounded, and all fled; after which he led back his Attendants with Spoils of him he had slain, being a golden Collar, and herein *Amianus* compares him with *Tarquinius* and *Corsinius*, those ancient Captains. Having passed his men over the River, and fortified his Camp by a double Trench for fear of the *Persian* Horse, he besieged the Place; for that he thought it dangerous to leave so considerable Enemies, as those that held it, at his Back. While he made Preparations for the Siege, the *Surenas* fell upon such Carriage-Beasts as were left beyond the River, but was repulsed by some Cohorts, with the Loss of a few men. Now also were two Cities standing in Islands deserted by their Inhabitants; whereof some flying to *Ctesiphon*, and others getting away in little Boats, many of them were intercepted by the *Roman* Horse, which was ever exercised in foraging, and got good Booty, while the Foot was busie at the Siege. The Emperor drew a double Line about the Town, but the Siege proved troublesome, both by reason of the natural Strength of the Place, and the firm Resolution of the besieged. No attempt would prevail that was known and open, nor the utmost Resolution of the Legions, nor the force of battering Engines, although they broke down a Tower, and together with it fell part of the Wall. At length the Design was effected by Mines, through which the Souldiers got into the City, and the Governor with some few others excepted, all found within were put to the Sword. But as for himself, *Julian* touched none of the Booty, only accepted of a dumb Boy which could shew Tricks, and of three golden Coins. As for the Women, which if any where, were beautiful in *Persia*, he would not so much as see one of them, imitating therein the Contenance of *Alexander* the Great, and *Africansus*, who declined such Temptations; lest being invincible, as to Labours and Performances of great things, they should have been conquered by Pleasure, and pitiful momentary Satisfactions.

48. This City being burnt, and such as lay hid in Caves and Holes, wherewith these Tracts abounded, on Purpose to do mischief, being either choaked with Smoke which the Souldiers on purpose fired in the Mouths of them, or killed when by it forced out; by many Bridges laid over the little Rivulets, they passed further, and came to two Forts, where *Victor* leading the forlorn was opposed by the King of *Persia*'s Son, who with many Noblemen and a power of Souldiers endeavoured to hinder his crossing the River. Yet upon Sight of the Body of the Army, they retired, and so the *Romans* arrived at that pleasant Country, so delightful for its Groves and all sorts of Fruits, but chiefly acceptable to them in this Respect, that it presented them with an House of the Kings, built after the *Roman* Fashion, which upon that very Account they left untouched. Here was also a Forest abounding with Lyons, Bears, Boares, and other sorts of Beasts, wild to Extremity, and kept for the Kings Pleasure when he pleased to hunt, which now became good Game to the Souldiers. Not far distant stood *Coche*, or *Silencii*, where the Army resting two Days, the Emperor as he went abroad to view the Place espied the Carcasses of the Relations of him that betrayed *Pyrsabora* nailed to the Gallows: And here *Nabdates*, the Governour, who with eighty more had been taken at the Surrender of *Maiozamalcha*, was burnt alive; for that, having at the Beginning of the Siege promised to deliver up, or betray, as *Amianus* terms it, the City, he had most earnestly defended it, and having notwithstanding obtained Pardon beyond all he could hope for, now was grown so insolent as to affront *Hormisdas* with all sorts of Indignities. Proceeding a little farther they lost some of their Baggage, carriage-Beasts and those that attended them, by a party which surprized the Rear while the Front was amused by another Body, that gave it a Diversion another way. *Julian* hereat fretting in vain, and now drawing nigh to the Regions of *Ctesiphon*, while he went to view another strong Fort he found in his Passage, again cast himself into extreme Hazard, wherewith being very angry, as if Fortune ought to have exempted him from usual, nay courted Dangers, he resolved to be revenged, and for that Purpose laid Siege to the Place, which they within as vigorously defended, trusting to the extraordinary Strength of the Fort; it being esteemed by them inaccessible; and not doubting of speedy Succour from the King, who now lay at no great Distance from them.

Sect. 5. 49. His Choler was still further moved by another sudden Onset made by the *Perſians*, who took and killed ſeveral of his Men, and the left apprehending that greater Numbers of them were arrived than indeed there were, their Courage began to fail them, and they were flow to Action. But afterward, by their Prince his Endeavours, and their own Dildain being again excited, they forced thoſe in, which had made a Sally at this time, when their Friends beyond the Water gave the Onſet, and had cut off a great Part of a *Cohort* with the *Tribune*. But the Emperour intraged at this Diſgrace, took away the Horſes from the reſt of the *Cohort*, whom he accuſed coldly receiving the Enemy; and cauſed them to ſerve as Foot Souldiers; which done, he burnt ſtill with a vehement Deſire of taking the Fort, for the Danger he underwent of his Perſon, and for that Purpoſe ſtill thruſt himſelf forward into more Difficulties, fighting at the head of his Men, encouraging them by his Example, and awing them by his Prefence and Obſervation. By theſe and other Means he obtained his Deſire; and having burnt the Fort, it was neceſſary now to give ſome Reſreſhment to his Army; which that it might receive without danger or diſturbance, he ſtrongly fortified his Camp, to prevent any ſudden Incurſions, or ſecret Attempts that might be made from *Cteſiphon*. After this Reſreſhment, they came to a *Foſſe-Dike*, or Artificial River, which had the Name of *Naarmalcha* (the River of Kings) being digged firſt by order of the Emperour *Trajan*, and afterward ſcowred up by *Severus*, for the paſſage of Vellels out of *Euphrates* into *Tigris*. But now it was dry, and the *Perſians*, to prevent any ſuch Deſign, had choaked it up with Stones; which *Julian* having found, thought fit to cleanſe, and reſtore it to its former Uſe; and this, by the Industry of his men, he effected, ſo as through this Curt, his Fleet paſſed out of *Euphrates* into the other River, and the Army having croſſed it on Bridges, proceeded in its March toward *Cocke*, through a Country that even raviſhed it with the beauty of what it afforded, and in the middle preſented them with an Houſe of the King's Retirement, in a ſhady * Place, the Rooms of which were furniſhed with Landſcapes, and therein repreſented their manner of Hunting; for the *Perſians* uſed no other Pictures than what concerned War, or repreſented fighting and killing, in ſome or other fort.

He grows raſh in his Actions.

The *Perſian* Army ſeeth him.

And is put to flight.

* *ſolus non ſolus Caſe ſuo appellat.*

Quod cum acceſſit men terriſſima dux concordia prius ſine prohibere tentant, &c.

ſilium rix rix caſum ſolus prius, &c. Liſtus prodant, nunc, intravit miles aſſiſt major, eadem ſiſſit cura victoriam.

fourth

Sect. 5. fought with that Succeſs, that about two thouſand and five hundred *Perſians* being left dead upon the Place, only ſeventy of his men had miſcarried. He, in Return of their kindneſs, called ſuch by their Names as he had obſerved to have ſignalized their Valour; and, according to their deſerts, conferred on them *Naval*, *Civic*, and *Caſtreſian* Garlands.

51. Now abundantly concluding with himſelf, that Fate would ſtill continue propitious to him, he prepared for his God *Mars* many Sacrifices. But for all this, ſo ſkittish Fortune would have it, that of ten moſt beautiful Bulls on which was to be conferred this ginning Honour, before ever they came to the Altar, nine, of his own accord, laid themſelves down in great ſadneſs; and the tenth, having broken looſe, though with much ado he was got back, yet being ſacrific'd, reveng'd his Death by ominous Signs. Hereat *Julian*, with violent Indignation, cried out, and call'd *Jove* to witneſs, that he would never ſacrifice more to *Mars*; and ſo verily it came to paſs, and he never recalled his Vow. But calling then a Council of War, ſome propounded that they ſhould fall upon *Cteſiphon*, though they knew it was a moſt difficult Enterprize, both by reaſon of the vaſt ſtrength of the Place, and for that the King was expected with a very great multitude to come to relieve it. The better way was reſolved on; to ſend *Arintheus* with a ſtrong Party of Foot to waite the Countrey, and intercept ſuch as lay lurking up and down to watch occasions for incommoding the Army. He himſelf would now follow his own fancies, ſuggeſted to him by the great Ambition he had of proceeding further, and not liſtening to any Advice given him to the contrary, upbraided his Officers therewith, as thoſe, who out of love to their Eaſe, would perſwade him to loſe the Kingdom of *Perſia*, which was now, in a manner, in his hands. Having furniſhed himſelf with Guides little fit for his Turn, he would needs take the way leading into the mid-land Countreys, and leave the River on his left hand; and, cheated by ſome pretended Followers, he moſt unluckily commanded all the Ships to be ſet on fire, except twelve of the leſſer ſize; which, being to be taken in pieces, he ordered to be conveyed in Waggon for the making of Bridges, as occaſion ſhould require. That which induced him ſo to do, was an unwillingneſs that the Enemy ſhould become Maſters of his Fleet; or elſe, as from the beginning of the Expedition had happened, no fewer than twenty thouſand men muſt be employed in haling and governing theſe Vellels. But theſe Reaſons were over-ruled by the juſt Fears of every man in the Army, who though never ſo valiant, who evidently ſhewed, that, though perhaps the Drought, or height of the Mountains might render the Country unpaſſable, and force them back, yet there could be no Retreat, as he had ordered the matter, and that their Fears were not without ground, the Guides themſelves atteſted, who, being put to torture, ſore againſt his will, as *Zonaras* writes, confeſſed, that they had offered themſelves to the ſervice on ſet purpoſe to deceive him. Late Repentance is better than none at all. The Flames are now ordered to be quenched, and the utmoſt endeavour of the whole Army uſed to that end; but ſo great progreſs had been made, that moſt of the Vellels were conſumed, and only twelve could be found that had not been touched by the Fire.

He burns his Fleet.

52. The *Perſians* perceiving this his diſadvantage, laid waite the Countrey as much as poſſible; and ſometimes in one poſture, another while in another, began to inſult over their Enemies, now beſieged in a manner. Both Emperour and Souldier was highly ſenſible of the want of their Boats for making Bridges, and more than that, knew not well how to reſiſt the *Perſians* now preſſing upon them; for the additional Aids expected with *Aſſaces*, and the other Captains, could not come at them for want of conveyance, by reaſon of the burning of the Fleet. *Julian*, a little to comfort his Men, cauſed ſome of the Priſoners to be brought forth, who being very lean, and thinne as moſt *Perſians* naturally were, he thence took occaſion to droll upon them and for the naiſnes of their Hair, and their Cowardiſe, affirming them went to turn Tail before ever they came to blows. This being eaſily ſaid, and the Captives removed, a Council was held to conſult of what was to be done. Much being alleged, the ordinary fort cried out to be led back the ſame way they came, which he, and many others oppoſed with reaſon, ſhewing how impoſſible ſuch a Retreat muſt be, all Forage and Proviſions being utterly deſtroyed by waſting of the Countrey; and the Waters every where out; beſides, theſe Tracts ſwarmed with Fles and Gnats, that the trouble of them was intolerable, the Skies being darkened with their waſt multitudes. All Humane Reaſon failing, they betook themſelves to the Entrails of Beaſts, and thereby conſulted their gods, whether they ſhould return by the way of *Aſſria*, or gently paſſing by the Feet of the Mountains, fall on *Chioconius*, lying near *Cordama*, on a ſudden, and waſte it; neither which were pretended to be lucky.

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Six autem milia Perſarum in hoc prelio occuſiſſe præſtat Libani.

Complaris hinc Marti paratæ altari.

Zonaris 753 tribuit cum 4000 navariis interſiſſe offiſſe Libani.

ad compingens deſperatis ſiſſe ſervatas qui quidem eo loco, ut notat

Valſius, mal- tam laborat, ut hoc inconſu- tam & impri- dent Achilles ſiſſe facinus ex- cuſti. Adde Auguſtinum de Civitate Dei, lib. 5. c. 29.

Sect. 5. lucky. It was resolv'd then, seeing they could do no better, to march for *Corduena*, and on the sixteenth of *June*, by Break of Day, they set forward; when presently a great Dust was discovered, which some imagined to proceed from an infinite number of Asles feeding not far off, who were wont to go in a Body together to prevent the Attempts of Lyons upon them. Others thought the Enemy at hand, and therefore the Army united, and in a grassy Plain, by a Rivers side, incamped it self as strongly as might be; for the matter could not be discovered all this day. And the Night dark of it self, was spent in great Anxiety, none daring so much as to fit down or close his Eyes. But as soon as it was light, the glittering Armour shewed the Kings Forces to be at hand; whereupon, the Emperor restrained his Men from making any sudden Onset: but the Fore-guards met and skirmish'd; and *Machabeus*, a Roman Leader, was killed; whose Death, *Maurus*, his Brother, afterward *Dux* of *Phœnicia*, revenged upon him that slew him, by sending him the same way and, with a Wound received in his shoulder, brought off the dead Body. The *Persians* at length were forced to retire; and so were the *Saracens* that hovered about to fall upon the Baggage.

53. The Emperor then held on his course, and came to a Village called *Hucumbra*, where they rested for two dayes; and beyond expectation, had plenty of all things. The day following, having set fire to all they could not carry away, they proceeded slowly, and the *Persians* fell in upon their Rear, but were repul'd by the Horse, with loss of a Noble *Satrapa*, one *Adacer*, who had been Ambassador to *Constantinus*, and was very well received: he that kill'd him, presented what he took from him to *Julian*, and received a Reward suitable to the Action. The same day, a Party, or Regiment of Horse, called *Tortiaci*, was accused by the Legions of deserting them, and slipping away in an Engagement; by which Cowardice the whole Army had been well high discouraged. The Emperor hereat enraged, took the Ensignes from such as were Convicted of the Crime, and breaking their Spears, caused them to march behind with the Baggage, and Prisoners; their Leader, who was found to have valiantly demeaned himself, being appointed to Command another Party, the Tribune whereof was also found to have run away. And four other Tribunes were also cashier'd for the same fault: *Julian* contenting himself with this more moderate sort of Punishment, in consideration of the hardness of the Service. Having proceeded some miles further, to a place called *Murange*, a great multitude of *Persians* appeared, who were Commanded by *Merene* the General of the Horse, accompanied by two of the Kings Sons, and very many of the Nobility. All these men were armed *cap à pie*, so as an Arrow could find no entrance, except in the little holes of their Armour, through which they saw or breathed; they used the Bow very dextrously; some fought with Lances, and they were all guarded by Elephants; with the smell, Noise and Sight of which Beasts the Horses of the *Romans* were much terrified. Their Riders who govern'd them, ever since the Overthrow they received at *Nisibis*, had large Knives hung at their Arms; that if they grew head-strong and ungovernable, they might therewith wound them in the *Ventrals* of the Neck (for there alone they were mortally vulnerable, as was experimented once by *Afrubal* the Brother of *Amibial*) and by their death the mischief might be prevented of raging and treading down those of their own side, as fell out at the said Battel of *Nisibis*, to the loss of ten thousand men, as some have written. *Julian*, putting on such a countenance as might best dissemble the Terror into which they were all cast at the sight, drew his Battel into the form of an half Moon, and fell with such violence upon the *Persians*, that they broke their Ranks, after great slaughter. The *Romans* had much the advantage, but the Souldier on both sides was so tired, as well by the great heat, as the fatigue of the Battel, and his Wounds, that three dayes Truce was willingly agreed on. Yet, this notwithstanding, the *Roman* was little at his ease, having Rest, but a very hungry Belly; for no Provisions were to be had, the Corn and Grass, and every other thing conducing to the sustenance both of Man and Beast, being burnt up. There was no other Relief, but for the ordinary Souldier to be supplied as far as it would go, with what the great Officers had provided for themselves, and what had been got for the Table of the Emperor, who contented himself with the fare of the very meanest, being indeed abstemious to a wonder.

54. After a short and troublesome sleep, having, in imitation of *Julius Cæsar*, applied himself to the Writing of the opinion of some Philosopher; when the dark and silent Night conducing much to his privacy, the Publick *Genius*, which he saw when he came to be Emperor, in *Gall*, now again appeared to him, as he confessed to his Friends, in a sorrowful Habit and Posture, having the Head covered with a *Cornucopia*, and so in sadness went its way. At the Sight he was astonish'd at the present, but being above all fear, he commended the Issue of all things to what was De-

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Sect. 5. creed above, and rising from his Pallet on the Ground, went to his Devotions, and then saw an Exhalation in the Skies in the shape of a Torch, falling down, which, having passed a good part of the Air, suddenly vanished. He was terribly afraid that it was the Star of *Mars*, which menaced him in this manner; and ere it was yet day, caused the *Hætriscan* *Aruspices* to be sent for, who being consulted about the meaning of it, affirmed out of the *Tarquitian* Books, in the Title concerning Divine Matters, that upon the appearance of such a Meteor, all Fighting was to be forbore; and when *Julian* contemned it, they entreated him that he would defer his March some few hours; But he hardened himself against all things of this nature; and when it was light, gave order for the Army to dislodge. The *Persians* not daring to come to a formal Engagement, distressed them upon the Flank, as they saw opportunity, and fell in upon the Rear; of which, word being brought to the Emperor, he forgot to put on his Armour, and only snatching up a Target in the Tumult, ran to their Relief; when again he was recalled by a fresh Alarm, that the Foot was attacked in the same manner. Labouring to repel this Violence, without any regard had to his own Person, a Party of the *Persians*, being those called *Cataphrasti*, set upon the middle Battel, and distressed the left Wing, the *Romans* not being able to endure the Noise and Smell of the Elephants. Notwithstanding this, the Emperor fought himself, that he restored the Battel to an hopeful Posture; and now the *Persians* giving Ground, with hands lifted up, he urged his men to the Pursuit, without any Care of himself, though those that were near him, advised him not to pursue the numerous and powerful Enemy too far. Neglecting all Counsel he was struck through the Arm into the side, and the lower lobe of his Liver, with an Horse-mans Javelin, it's uncertain how, which endeavouring to pull out he cut his Fingers; and falling upon the Neck of his Horse: was brought into his Tent and dressed. The Pain being something abated; he called for his Arms and Horse, that by his Presence he might animate his men, and reinforce the Fight; but his strength would not answer his Inclination, so much as he weakened by a Flux of Blood. Now he despaired of Life, when he understood the place where he was hurt to be called *Phrygia*; for in *Phrygia* it had been told him that he must dye.

55. The Emperor being conveyed into his Tent, incredible it is with what Rage his Souldiers breathed after Revenge, which they testified, by the beating of their Targets with their Lances, and oblatinly resolved to dye with him, if it should so happen. Though they were even blind with Dust, and melted with Heat, yet did they, as having now no Governour, rush on upon the Enemy, who on the other side, fore-galled them with his Arrows, and restrained their Violence by the Interposition of his Elephants. The noise and shouting of armed men, Groans of such as fell, shouting of Horses, and clashing of Weapons was heard afar off, and continued even till dark Night put an End to them. Fifty *Satrapas* and noble *Persians* were killed; besides a vast number of the ordinary sort. Of the *Romans* fell *Anatolus* the *Magister Officiorum*; the right Wing of the Army being worsted after the Disaster which hapned to the Emperor. *Silvestus* the *Prefect* was rescued from Destruction by one of his *Apparitors*; but *Phosphorus* his Councillor, or Assistant, was slain, and some Souldiers having passed through very great Dangers, seized on a neighbouring Castle, and therein securing themselves, joynd the Army after three dayes. But, while the Fight continued, *Julian* lay languishing in his Tent, and finding those about him very sorrowful and desir'd to see him in that Case, comforted himself and them after this manner. The time of departing this Life, is my Companions, now arrived, which as an honest and well meaning Debtor, I gladly repay to Nature; and not, as some believe, with Reluctancy and Sorrow; for by the common Opinion of Philosophers I am sufficiently instructed, in how much more blessed Condition the Soul is than the Body; and am satisfied that when one passes out of a worse into a better Estate, he ought to rejoice rather than be troubled, considering also that the celestial Gods reward the most pious men with Death, as the greatest Reward of all others. I also am assured that it happens to me after the same manner, lest I should fall under so heavy Burthens as I undergoe, or do any thing unworthy of my self, having yet ever found by Experience, that Sorrows and Pains, as they dominier over Cowards, so are easily overcome by valiant Persons. Neither doth it repent me of mine Actions, nor the Remembrance of any Wickedness afflict me; either committed at such time as I lay in the Shade and in Corners as I could, and studied Virtue; or since I came to the Government. I think I have kept my self blameless and without Blemish, as one defended from the Gods above, in times of Peace governing with Moderation; and not without good Consideration, making ei-

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ther offensive or defensive Wars, though the Issue was not always answerable; for the celestial Powers alone have the Sovereignty of Events. Concluding with my self that the end of Government is the Advantage and Safety of good Subjects, I have ever been, as you know, more inclined to Peace and Tranquillity; by the whole Course of mine actions opposing Licentiousness, as that which corrupts both Things and Manners, and whithersoever my Mother, the Commonwealth, how imperiously soever, called me, though to never so dangerous a Post; there have I stood immovable, being accustomed to despise all fortuitous Events... I will not be ashamed to confess that I have heretofore understood that I should dye in War. And therefore I adore and praise the eternal Divinity, that I perish not by any Conspiracy, nor languish through the Force of a Dilease; nor am I condemned to Death (he thought, it's probable, upon his Brothers End) but in the middle Course of my flourishing Glories, I have deserved to famous a Passage out of this World. He is equally to be esteemed a Coward who desires to dye, when he ought to live; as he who thins Death when it comes conveniently. Thus much it may suffice to have spoken; my Strength now failing me. Concerning my Successor I wittingly say nothing, left through Imprudence I should pay by a worthy Person; or by naming one I conceive fitly qualified, if another should chance to be preferred, bring him into imminent Danger. But as a dutiful Son of the Commonwealth, I wish her a good Governour in my room.

*Nem inique
ci illustrium
ci profectus de
Juliani dignis
Et ex vixit
Nec enim
necessitas facie
cibus progre-
runt, ut vult
Libertate
tropolis, Felicitas
Rogati, ac ubi
dierum, cum
cum ad hollan-
equite & quid
dem fugiente
Conversio
sum esse mem-
rant, Et qui
quis dixerat
ut Marcellinus
stram bene Es*

And dies.

The Character
given him by
ammianns.

His Virtues.

56. Having mildly spoken thus much, he disposed his private Estate to such as were nearest in Kindred to him, and inquired after *Anatolius the Magister Officiorum*. *Salustius the Praefect* made answer, that he was happy; by which usual Phrase of Speech understanding that he was dead, he much bewailed his Misfortune. Observing those that were near him to weep, he gravely rebuked them, affirming it a pitiful mean thing to bemoan a Prince that was a Friend to Heaven and the Stars. They being thus silent, he entered into a Subtile Discourse with *Maximus* and *Priscus* two Philosophers, concerning the Sublimity of Souls, till such time as the Wound gaping and the Tumour of the Vessels intercepting his Breath, having called for a draught of cold Water, about midnight he the more easily expired; in the two and thirtieth year of his Age. He was born at *Constantinople*, of *Constantius* the Brother of *Constantine* the Great, (who was made away by his Nephews, while this his Son was yet a Child) and of *Basilina* a woman of very noble Descent. A man truly to be reckoned amongst Heroick Wits, and otherwise considerable for the Eminence of his Actions; and his Majestick Comportment. For whereas, as women define, there are four Cardinal Vertues, *viz. Temperance, Prudence, Justice and Fortitude*, besides others contributing to perfect Accomplishments, as Knowledge in Military Matters, Authority, Felicity and Liberality, he intently studied the Practice of them all. As for the first he was so invincibly chaste, that after the Death of his Wife, he never had to do with any woman, remembering that Passage in *Plato*, how *Sophocles* the Tragedian, when grown old, being asked whether he made Use of that Sex, denied that he did, adding withal, that he rejoiced to think how he was freed from that cruel and domineering Passion. And to strengthen him in this Resolution, he often called to mind the Saying of *Bacchylides* the Lyrick Poet (in whose Writings he much delighted) that asan excellent Linner lively expretheth the Beauty of a good Face, fo Chastity sets off with Lustre the Perfections of a good Life. But even in his youth he could never be suspected as guilty of any Intemperance this way, by those who had the greatest Reason to know him. And to obtain this Power over himself, he took the true and natural Course, of Moderation in Eating, Drinking and Sleep; wherein he was constant and exact at all times. For, in time of Peace the slenderness of his Fare was to be admired, even as of one who was speedily to return to the *Pallium*, or the Contemplative Life; and often was he seen in his Expeditions to eate some light and ordinary thing, walking upon his Feet. Having a little refreshed his weary Body, hardened by Labours, he would rise and visit the Guards and Sentinels himself. And if the Lights, by which he studied could have born Witness, they would in earnest have discovered a great Difference betwixt him and some other Princes; knowing that he indulged not his Pleasures, no not so far as the very Necessities of Nature required.

57. Of his Franchise these were sufficient Evidences amongst many more : He was excellently keen in martial Affairs, and most studious he was of Matters relating to Peace and civil Government; abstaining so much to himself as to preserve him from Contempts, with Prevention of Insolence. In Virtue he was older than his years, was desirous of all sorts of Knowledge, a Judge not to be biaised to one side or other ; a most sharp Censurer of Manners; one who easily contemned Riches, and

Sect. 5. and despised all Mortal things: and had often this saying in his Mouth, That it was *unseemly for a Wise man that was possessed of a Soul, to seek for commendation from any thing relating to his Body.* As to his Justice, that no less was Eminent in several particular. He was, according to the different nature of Matters brought before him, awful, but without Cruelty. By the punishment of some few, he restrained the spreading of Vice, and rather shook the Rod than struck with it: and (to omit many other instances) to open Enemies and Traitors he was so Merciful, that he mitigated the sharpness of their Punishment by that Mildness which was Natural to him. His Fortitude sufficiently appeared in the frequency of his Fights, and the Use of his Arms; besides his enduring the extremity both of Cold and Heat. The Duty of a Soldier is discharged by the Body; that of a General by the Mind: Yet did he, with his own hand, kill several stout and terrible Enemies; and by opposing himself to manifest dangers, he sometimes stopped his Men when running away. The Kingdoms of the furious *Germans* he overturned, and now, in the War of *Persia*, by venturing himself with the first, very much encouraged his Souldiers. The manner of his Attacking Cities and Castles, the various forms of his Battels, as occasion urged, his cautious Encampings, and his ordering matters relating to the *Preteniture* and Stations upon the Borders, discovered what his skill was in things relating to the Field. His Authority was of that weight, that he was both beloved and feared; as a Companion in Labours and Dangers; and yet as one who was ready to animadvert upon Cowards, and other sorts of Offenders; insomuch, that when he was yet but *Cesar*, he governed an Army that was not paid, and that opposed against fierce and daring Enemies; he appeased them, when mutinous, by threatening, that except they would be quiet, he would depart, and return to a private Life; and, which may serve for many evidences of this nature, by his Entreaty he drew the *Gallican* Souldier, inured to cold Frosts and blasts upon the *Rhine*, through long and tedious ways, into scorching *Affrica*, and the Confines of the *Medes*. His Felicity was so eminent, that he seemed to be borne up aloft upon the shoulders of Fortune, through all Difficulties. Though he removed from the West to a vast distance, yet, so long as he lived, all Nations continued steadfast in their Obedience. Of his Liberality he gave manifest proofs, in that his Tributes were very easie, the *Aurum Coronarium* he remitted, and forgave Arrears that had been long owing; indifferently judged betwixt the Treasury and private Persons; restored Tolls and Lands to Cities from which they had been taken; except such as had been sold by sufficient Authority: In conclusion, he never coveted to be Rich, concluding that Money would be most cautiously preserved in the hands of the Owners, and commanding the Answer of *Alexander* the Great, to such as demanded where he kept his Treasure: that it was in the Coffers of his Friends.

His Vices.

58. His Vices were a light Humour ; wherein yet he would be adviſed and corrected: Talkatiſſvneſs, to ſuch Exceſſs that his Tongue never lay ſtill : Immoderate ſearching after Divinations, wherein he ſeemeth to have been as extravagant as his Predeceſſor *Adrian*. Superſtitious he was, rather than any due Obſerver of ſuch Rites; for he would ſacrifice an Innumerable Company of Beaſts; inſomuch that had he returned out of *Perſia*, it's thought that Bullocks would have failed him, as formerly *Marcus Ceſar* was twitted by a Libel upon that account. Vainglorious he was, and intemperately hunted for Praise and Fame in matters the moſt trivial that could be; and through a Thirſt of Popularity often affected to talk with contemptible Perſons. Yet for all this it might be well thought, that, as he himſelf, ſaid (if he ſhould have done it) old *Justice*, which being offended by the Vices of Men, was by *Aratus* lifted up into Heaven, returned down to the Earth in his Reign; if doing ſome things according to his arbitrary Will, he had not acted unlike himſelf. He made ſome moderate and good Laws, both abſolutely commanding and forbidding things to be done; but a few of another nature; amongst which, that unmerciful one whereby he forbade Rhetoricians and Grammarians, that were Chriſtians, to teach, left they ſhould convert their Scholars from the worſhip of the Gods. In like manner that was intollerable, that he ſuffered many unjuſtly to be obliged to ſervices of Corporations, being either Strangers, or by reaſon of Privilege, or Original, far eſtranged from thoſe Bodies. His Stature was of the middle ſize, his Hair hanging down without curling, his Beard rough and picked, his Eyes ſparkling, his Forehead comely, his Noſe ſtraight, his Mouth ſomething large, his nether Lip hanging down. Broad Shouldered he was, and his Arms and Hands of ſuitable Proportion, his Limbs very well ſet both for Strength and Nimbleſſe. And becauſe his Detractors accuſe him as having cauſed Wars and Commoſitions to the Detriment of the Commonwealth, ſuch ought to know for certain, that

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that it was not *Julian*, but *Constantius* that kindled the Flames of the *Partisan* *A. D.* War, out of desire of Revenge (having been cheated by the Lies of *Metrodorus*) - 62. for that many Armies were lost, Cities seized, Forts taken or destroyed, the Provinces exhausted, and all things tended to Ruine; the *Perfians* having pierced as far as *Bithynia* and the Shore of *Propontis*. In *Gall*, the *Germans* were so bold, that having harried all that Country, they were about to pass into *Italy* over the *Alpes*; and such were the Miseries of the Provincials that they had nothing they could account certain, but Tears and Terrors; the Memory of things past being grievous, and the Expectation of what was to come still more troublesome. All these Disorders this young man, being thither sent under the Vizard of *Cæsar*, redressed, and dealing with Kings no otherwise than so many ignoble slaves, with wonderful Celerity dispatched. That he might in the same manner restore matters in the East, he set upon the *Perfians*; and from that Attempt had brought back both matter for a Triumph, and a Sirname (of *Particum* after which he freely thifted) had the heavenly Decrees been answerable to his illustrious Councils and Exploits. Some there are indeed, who though often beaten will yet unadvisedly fight again; and others who though they have suffered several Shipwracks, will still Court the same Dangers they formerly underwent; but who is he that can affirm this Prince, who was ever victorious, to have done the like?

59. Reader, all this while thou perusest *Ammianus* in another Language, who having been present in this Expedition, and an Eye-witness of what passed, is rather to be made Use of in this matter than any other, especially than *Zosimus*, who tells another sort of Story concerning this Journey, differing not only in Circumstances, but in Names. Others relate some other Circumstances of his Death, which are not much to be heeded, nor of Consequence whether they were true or not. Concerning his Character, *Pagan* writers fully agree with *Ammianus*, whose great Affection to him is most evident, and that for such Reasons, as the contrary Arguments have, possibly, caused others to be as severe, as he is indulgent to his Memory. That we might shun this dangerous Rock of Partiality we have not omitted any thing remarkable alleged by himself or his Friends in his Commendation, but to make it more expreſſive, given it in their own terms, or manner of Speech, though often harsh; and therefore may be excused, if in another place, wherein his Actions in reference to Religion are to be scanned, we make a severe Scrutiny into his Virtue, so much celebrated by one sort of men. Here we shall only say in short, That it cannot be denied, but that he was a man of Excellent Parts, and that such as say the contrary incur the other Extreme, and deserve part of that Censure which so justly falls heavy upon lying *Zosimus*. His Achievements against the Germans were extraordinary, considering his young years, and that he had been Educated in the Study of Letters, not of Arms, and was accustomed to the *Pallium*, not the *Chlamys*. His abstinence, as to Corporal Pleasures, was to be admired, and other things were very commendable in him, if he did not abstain and act on purpose to beset men. But, whereas his Admirers are wont to aggrandize his Actions against the Germans by the number of the Kings of such Nations as there he mastered; they seem very impertinent in so doing, to such as very well understand, that these Nations were but Tribes or Clans of the same Country, and these Kings but *Reguli*, and the several Sons of the same *Reguli*, whose Kingdoms may be more truly termed *Pagi* than Realms. And, in my poor judgment, all Partiality and Prejudice put aside, they cannot conceal these Flies which appear so noxious in the sweet Ointment of his Virtues; viz. that extraordinary Vain-glory and Offentation with which he appears more to have swelled, than any man that ever we read of, if his Historian hath given us a true Account of his Speeches, and the general and constant manner of his Demeanour. But the Efficacy of his Pagan Religion could not reach so inward and potent a Vice, which makes its fortification in the Heart; nothing could do but that from which he thought fit to Apostatize. However, Scholars are to rejoice, that the great Honour procured to Learning, from the Conduct of Armies, and Success of Arms, by *Epaminondas* and *Xenophon*, was really continued and augmented by him. And yet possibly, he was in the number of those Princes, who had the more of Fame, because they had so little of Life; Time and Temptations discovering the frailties of glorious, but not well-founded beginnings: to be sure he altered much from that Clemency he first pretended toward Christians, and shewed the virulence of his Humour. But now we find him dead; and, as he himself said of *Constantius*, Let the Earth, according to the Greek Prophet, be light upon him. We shall only add, that he died on the twenty sixth of *June*, in the second Year of his Reign, and the two and thirtieth of his Age; in his fourth Consulship, which he bore with *Salust*, *A. D.* CCCLXIII.

CHAP.

THE ROMAN EMPIRE.

CHAP. II.

The Middle State or Condition of the Empire. From the Death of *Julian* to that of *Theodosius* the Great.

SECT. I.

From the Death of *Julian*, the last of the Family of *Constantine*, to that of *Jovian*; the space of Seven Moneths and odd Days.

Great Contentment about a new Emperor.

JULIAN being dead, the next day early in the morning the Officers, with the Principals of the Legions and Troops, met in Council, the Enemy now lying round about them. Great and turbulent Diffention there was about the Election of an Emperor, whilst *Aurélius* and *Vitor*, who remained of *Constantine* his Courtiers, laboured to have one of their own Faction; and on the other side, *Nevoita* and *Dagalaphus*, with the Commanders of the *Galls*, endeavoured to prefer a Man of their own Acquaintance and Interest. At length they all pitch'd upon *Salust* the *Præfect*, a very Worthy Person; but he excusing himself by Infirmary and Old Age, when they were at a stand not knowing what to do, some few made mention of *Fovian*, and in so deliberate a case he was elected. He was the Principal *Premier*, or chief of the *Domestick* *Protektor*, the Son of *Varonian*, who was of the Rank of *Comites*, and very Eminent, being a Native of *Singidunum* in *Pannonia*, who having lost many Children, was commanded in a Dream to call his next Son by the Name of *Fovian*, and had lately retired to a Private Life. The Army lying abroad, to the extent of four miles, upon the Acclamation and Shout of *Fovianus Augustus*, those that were in the Front mistook the Name, and thinking *Julian* to be recovered, out of an ill-grounded Joy much more augmented the Solemn Cry; though finding afterward their mistake, they turned it into Tears and Lamentations. *Fovian* thus promoted, an Ensign-bearer of those Souldiers called *Foviani*, who had been commanded by *Varonian*, and maligned his Officer, fearing that he who had detracted from the Father should now be punished by the Son, fled over to the *Perfians*, and getting speech of the King, acquainted him with the Death of his Enemy, and how by a company of contentious Fellows, in a tumultuous manner, one *Fovian* was chosen a kind of Emperor, who formerly had been but a *Protektor*, and was now no better than a Coward. *Sapor* gladly hearing the News he had so long wished for, and elevated by fresh hopes, gathered his Men together for a fresh Onset, with resolution to fall on the Rear of the *Roman* Army. The Entrails of Beasts being consulted for *Fovian*, as *Ammianus* tells us (though surely not by his Command) he being of a Religion opposite to all such Superstition, promised Security if he removed, but destruction if he continued within the Trenches.

The Army marcheth.

2. Issuing out of the Camp he was presently attacked by the *Perfians* with their Elephants placed in the Front. By them both Men and Horses were much disturbed, till the *Foviani* and *Heruliani* killed some, and opened their way to the Horse; and then being succoured by the Legions of the *Fovii* and *Vitores*, did great Execution, with the loss of *Fulianus*, *Macrobins*, and *Maximus*, three valiant Tribunes and principal Officers of the Army. They being buried as the time and urgency of Affairs would permit, *Fovian* proceeded to a Castle called *Sumys*, when it was now almost Night; but there the Body of *Anatolius* was found and committed to the Earth also in a tumultuous manner, and sixty Souldiers, who (together with the *Palatine* Guards) had betaken themselves to a neighbouring Castle after the Fight, recovered the Army. The day following they encamped as they could in a Valley, and drew a Line for their defence, which they secured by sharp Stakes, and left but one Passage out of sufficient capacity. Hereupon the Enemy infected them both by

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At *Zosimus* *Ep.* *Zosimus* post *Fovianum* inter *des* *mortem*, *Impetum* *amicum* *confusio* *distat* *usque* *Salustius* *nar* *rant*, *quod* *quidem* *ip* *fo* *vitatum* *cas*. *status* *constanti* *animi* *recessi* *o* *it* *: filio* *vero* *quod* *ad hoc* *no* *juvior* *esset*, *deserit* *salust*

A *Disciplinatus*, *cul* *Fovii* *A* *Maximiano*, *cul* *Herulianis* *cognomen* *ac* *cessit*.

E c

Arms

Sect. I.

Arms and Words, reviling them as Traitors and the Murderers of an Excellent Prince, for they had heard that *Fulian* fell by the Hand of a *Roman*; and a Party of their Horse had the confidence to break into the Camp well nigh as far as the Emperors Pavilion, but were beaten back with great loss. Discomfiting thence the night following they came to *Chartha* a place safe enough, where the Enemy did not at all infect them; and on the fifth of *July* reached a City called *Dura*, the Carriage Beasts being now so tired, that they that governed them marching on foot, had been cut off by the *Saracens*, but that they were relieved by some of the Light Horse-men. The *Saracens* had been lately offended by *Fulian*, to whom having recourse for the Pensions formerly allowed them, they had this Answer returned, That a warlike and vigorous Emperor was wont to have Steel, but no Gold. About this place they were forced to stay four days, for the *Perfians* still dogged them at the heels; and when they turned head to give them Battel, again retreated, and so forced them to spend the time in Delays. But now they were told by some bolder than the rest, that they were near their own Confines, and thereupon the whole Army required, and that in a tumultuous manner, that they might pass over the River *Tigris*. The Emperor and the Officers earnestly opposed it, shewing that now upon rising of the Dog Star, the Waters were exceedingly increased; and further urging, that most of them could not swim, and that the Enemy had seized the further Bank, they desired them not to precipitate themselves into so manifest danger. But they were impatient of Contradiction, and proceeded as far as to Threats: whereupon he commanded the *Galls*, who were accustomed to swimming, first to take the Water, that if they perished in the Attempt, the rest might be taught by their Destruction to learn Obedience; but if they came to Shore, the Passage might be prosecuted with the greater confidence.

3. Some of these *Galls* entering the River in the night sooner recovered the further Bank than was imagined, and killing the *Perfian* Guards whom they found asleep, thereof gave notice to the Army. The Souldiers having understood their success by their Signal, were hereby violently moved to take Water, where some Undertakers engaged by the use of Bladders to frame a sufficient Bridge for their Transportation. Whilest this they endeavoured to accomplish to small effect, *Sapor* the King of *Persia* was not a little perplexed in his mind. He being absent of late had understood how matters had passed since his departure, that so many Men were slain, and so many Elephants killed, as he had not been accustomed to hear of, and considered that by these continual Exercises and Labours the *Romans* were rendered more hardy and serviceable, and after the fall of their late Emperor would not have respect so much to their own safety, as meditate Revenge, even to such extremity, as either to overthrow the Difficulties wherewith they were surrounded by a notable Victory, or else finish the course of their toil and hardship by death it self. Moreover, he knew that further Supplies might speedily be gathered out of the neighbouring Provinces, and indeed that another Army lay in *Mesopotamia*, not much inferior to this. He was sensible that his own People was much harassed and discomfited by frequent losses, and wasting of the Country, and began to apprehend several disadvantages, and that the issue might be pernicious on his own side; but hearing of this bold Attempt of five hundred *Galls*, he resolved to offer *Jovian* Conditions in a time so critical, when the Bridge could not be completed by reason of the strong Current, and all Provisions being spent two days before, the Souldier was enrag'd with Anger and Famine, and desired to end his days rather by the Sword, than by so pitiful a death as that of Starving. But the Conditions he propounded by the *Surenas* and another Nobleman, were hard and perplexed, and four days were spent in the Treaty, managed on the *Roman* part by *Salust* the Prefect, and *Arimbeus*, the Army in the mean time languishing with Famine. He pretended he was moved by Humane Compassion, to permit the Retreat of the Remainers of *Fulian's* Army; in consideration whereof he would ask but his own, which the Emperor *Maximian* had so unjustly taken from him. He demanded the five Regions beyond *Tigris*, viz. *Araxensis*, *Moxoena*, *Zabdicena*, *Rheimena*, and *Corduena*, together with fifteen Castles, besides *Nisibis*, *Singara*, and *Castra Maurorum*, a Fort of very great consequence. *Ammianus* tells us, that it had been better to have fought ten times over, than to have yielded to the least of these things, but the fearful Prince was persuaded to grant them by a company of Flatterers, who terrified him with the Name of *Procopius*, as who undoubtedly upon the report of *Fulian's* Death would set up for himself, having an Army at his devotion for that very purpose. He hardly obtained, that the Inhabitants of *Nisibis* and *Singara* might be removed into the *Roman* Territories; and consented to a thing which our Historian terms pernicious and impious, which was, that he should not assist *Asaces* King of *Armenia* against the *Perfians*, though

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Mesopotamie,
cum civitate
ephe trans Ti-
grim flui.Munities, and
will needs
pass over Ti-
gris.Sapor inclines
to give them
good Condi-
tions.A Truce for
30 years upon
what terms.

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though a constant and faithful Friend of the Empire. This *Sapor* pressed upon two accounts; that he might be revenged on *Asaces* for having wasted *Chilicoenus* at the Emperors instance; and be capable of invading *Armenia* at his pleasure. And hereupon it happened afterwards, both that *Asaces* was taken Prisoner, and that part of *Armenia* bordering on the *Medes*, with *Arasata*, was during these Disturbances seized by the *Parthians*. For performance of the Conditions Hostages were exchanged; on the *Roman* part *Neovita*, *Victor*, and *Mellobaudes*, Eminent Tribunes of the Army; on the *Perfian* *Bingies*, one of the chiefest of the Nobility, and three other *Satrapas* of note and quality.

4. This Peace thus concluded for thirty years, and religiously sworn to, is as remarkable as any Passage of these Times; and various are the Reflections which Writers make upon it, according to the diversity of their Inclinations. That it was very ignominious all agree, the *Romans* having not been accustomed to part with their Territories, though sometimes they received notable Defeats. Some held there was no necessity of making it, as *Ammianus* by consequence; for if what he writes be not a groundless Conjecture, *Jovian* might easily have marched away before the Treaty began, and while the *Perfians* were making the Overture, into *Corduena*, a Country fertile within his own Dominions, and distant but an hundred miles. Others say, that the Agreement was necessary, but blame him for not breaking it so soon as he was in a capacity to do it; and *Eutropius* instanteth in War made notwithstanding such Accords, upon the *Samnites*, *Numantines*, and *Nimidiens*; adding that this Peace was not ratified, but that *Jovian* fearing an Emulator, therein little consulted his Glory. If the Peace was necessary, *Jovian* can neither be blamed that he made it, nor that he did not break it. It was *Fulian* who was the Author of the necessity, whom not only Christian Writers accuse of rash Ambition and Wilfulness as to this point; but *Ammianus* too, as we have lately seen, for he was little better than fool-hardy in the matter of burning of his Ships; for although this course hath been taken otherwhiles, as might be instanced in several, who did it to cause their men to fight, by seeing all hope of Escape cut off from them; yet hath it been practised either by those, whose great Temerity hath overtopped their Prudence, or in case of some extraordinary matter to be obtained by the fortune of one Battel, when the meannells of the present Condition of the Person, in respect of that great Fortune he should arrive at by the success of so hazardous an Enterprize, hath prudently excited him to venture Life and all. Such young, ambitious, and rash Persons as *Alexander*, the Great, and others, the Conquerors of whom are to be ascribed to Fortune, not to Conduct, might well have been by Juvenile Heat excited to such an act of Desperation: or the Kingdom of *England* might easily have tempted a Duke of *Normandy* to burn his Ships, and lay Life and all things at the stake. To which we may add, that if sometimes such Extremities have been embraced by those who have been excluded from their Rights, or cast out of Possession, the just indignation thence conceived, and the miserable estate to which they have been reduced, have afforded sufficient Arguments, not only for their Excuse, but Commendation. But all seem to be wanting to *Fulian*, upon an exact scrutiny into this matter: For to consider the Ends of his entering upon this War, the Reputation and Safety of the Empire, could only be sufficient Motives to the Undertaking. But Reputation was through his natural vain glorious Temper, as his Friends confess, turned into Ambition and stubborn Opiniastrity, while to purchase the Title of *Parthicus*, he would as in other particulars, for this especially of burning his Ships, sacrifice not only his own safety, but that of his whole Army, contrary to the Counsel and Prayers of all his Officers. That safety which he ought in reason to propose to himself, could be no other than that of the bordering Provinces of the Empire, to preserve them from Conquest or Devastation. But by this rash Attempt he endangered more to preserve the rest, not only in exposing to ruin his own Person, upon the safety of which much more might have depended than possibly did at this time, but that of the Army also, which being destroyed, the Destruction of the Provinces must needs follow, and probably some other Attendant on such a Disaster. Indeed had the Empire of *Rome*, or his Condition as Lord thereof, been contemptible in comparison of what he was about to obtain, the venture might have had advantage; but in this case the stake was much greater than what he could rationally expect to win. And yet the Kingdom of *Persia*, though not to be named in the same day with the Empire of *Rome*, was too great a Prize to be won at once, or with such a lucky hit as was that of *Alexander*. One Battel would not do it, nor many more: many Armies he could not but expect out of the Overthrows and Ruines of some, which possibly he might have defeated. And he found it was a thing

Various Re-
flections by
Writers upon
it.Of the neces-
sity of the
Retreat: *Jovi-
an* was Au-
thor.

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practicable to waste the Country, and cast him and his Forces into such necessities as he could not supply; especially having, by the unadvised burning of his Fleet, cut off Succours both of Provisions and Men.

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For Jovian could not have prosecuted the War as he left it.

5. Such was the Conduct of *Julian* in this Action; the course of which had *Fovian* prosecuted, and carried on the War where he left it, with the same Designs, whatever great Arguments *Ammianus* tells us that *Sapor* had to treat with the *Romans*, he might possibly have been guilty of a greater oversight than that Error was he committed in making the Peace, and ten times over he might have fought, and twenty to them, ere *Julian's* Project could have been accomplished. Whether he could have gently run away, or made a Retreat without a Truce, saved his Men by flight, and the Provinces by his Protection, is more difficult to be resolved, than to take the bare word of *Ammianus*, whose story concerning the danger of passing the River, a man will think little consistent with this Affirmation, that he might have escaped into *Corduene*, but an hundred miles off: and had this Retreat been easy, or so possible, why doth this Historian, as well as others, so tax *Julian* for burning his Ships, and thereby cutting off all security for a Return into his own Dominions? To be sure the danger the Army was now in was extreme, as well by the Multitudes of *Persians*, which on all sides pressed upon them, as by Famine: and this *Zosimus* affirms, whom we have reason enough to credit in this point, though the series of his story in reference to this Expedition be obscure and insignificant, in comparison of that of *Ammianus*, an Eye-witness. And he adds, that notwithstanding the Peace, and that they had leave to return at their ease, yet scarcely at last with great toil and loss they arrived at *Nisibis*. What then would in probability have been the issue, had the Multitudes of *Persians* every where way-laid them, and cut them off, while they also struggled with Famine? As for the Assertion of those who held he was to have broken the Peace when out of danger, it is not worth taking notice of; for much more ignominious had been so great a breach of Faith, and violation of the Law of Nations. If such Covenants be not performed, though disadvantageous, what Trust will be given by Men one to another? If no Trust, no Entercourse amongst Nations: all things must run to extremity. He that keeps no Faith, no Faith will be kept with him. All men will stand aloof from such a Prince, and behold him not as a Creature fit for Humane Society, but an Animal of a more savage nature, defined only for the Affliction of Mankind.

Nor ought he to have broken the Truce once made.

The Army passeth the River Tigris.

6. The Peace (most ignominious however) being religiously sworn to on both sides, *Ammianus Marcellinus* further tells us, that the *Romans* retreated to find a more convenient place for passing the River, being sorely distressed both with Hunger and Thirst, which constrained some to venture over by stealth, who were either drowned, or being got to Land were knock'd on the head by the *Persians* and *Saracens*, or else taken and sold for Slaves. But being arrived at the designed place, and the Word once given for taking the water, incredible it is with what alacrity each one strove to prevent his Fellow, some making use of Bladders, and others of other means and helps. The Emperor, and some few about him, served themselves of those few Boats that were remaining of the burnt Fleet, and afterward caused them to often to cross the River, till all were got over. In the mean time the *Persians* began a Bridge at a good distance, with a design to fetch off all Straglers, and Cattel that should come behind; but their Plot being discovered, they desisted. The *Romans* freed from this Fear began their Retreat, and by great Journeys came to *Hatra*, an old Town situate in the middle of the Desert, and long before deserted, which *Trajan* and *Severus*, though both great Warriors, labouring to raze, were well nigh destroyed with their Armies. It being here known, that for seventy miles in this dry and barren Country no Water was to be had, but such as was salt and stinking; neither any thing to feed on except *Arbutum*, *Wormwood*, and *Dracontium*, with other such unfavourable Herbs; sweet water was provided, and Camels killed to make as good Provision as was possible. After a March of six days, wherein not so much as a little Grass could be found, *Cassianus* the *Dux* of *Mesopotamia*, and *Mauritius* a Tribune, having been sent before upon this Errand, met them at *Ur* a *Persian* Castle, and that very seasonably with Provisions, which the Army under Conduct of *Procopius* and *Sebastian* living very frugally had spared. From this place another *Procopius* a Notary, and *Memorius* a Tribune, were dispatched away for *Illyricum* and *Gall*, to give notice of *Julian's* Death, and the Promotion of *Fovian*. They had Instructions to persuade *Lucilianus*, the present Emperors Father in Law, who had given over all Employment, and retired to a private life at *Sirminum*, to accept of the Codicils or Commission they carried with them

And prosecuted in Retreat.

Messengers sent by Jovian to establish his Interest in the West.

Sect. 1.

them of a *Magister Militum* of both forts; and to hasten to *Milan*, there to order matters as should most suit with his Interest. By more secret Letters he desired him to get such Attendants about him as he could certainly trust, to put in Execution his Orders: And one *Malarich*, who was his familiar Friend, and lay then in *Italy*, he very prudently constituted *Magister Militum* in *Gall*, in the room of *Fovianus*; for hereby he both removed a man very powerful, and whom he had reason to suspect; and obliged one of so mean Condition, by preferring him to such a Command. The Messengers were further enjoined, to report all things that had lately happened with advantage; and having sifted all mens Inclinations, to return with the best Intelligence they could, upon which future Councils might be founded. Yet made they not such haste, but the news of the late Disasters had flown to several places before their Arrival.

The Army distressed by Famine.

7. In the mean time all Provisions again failed, and the Army was so grievously distressed with Famine, that a little supply they had of a very few Carriage Beasts, preserved Mans Flesh from being offered up to the ravenous Tyrant; and one *Modius* of Flower was sold for no less than Ten *Aurei*. At length they came within sight of *Nisibis*, and pitched their Tents without the City; for the Emperor, though earnestly intreated by the Inhabitants to enter and lodge in the Palace, as his Predecessors had done, pertinaciously refused, as ashamed that a City so impregnable whilst he was in it, should be delivered up to a revengeful Enemy. Now was one *Fovian* (the chief of the Notaries) suddenly taken away as he sat at Supper, and being cast headlong into a deep Pit, was overwhelmed with an Heap of Stones; for that having after the Death of *Julian* been mention'd as worthy of the Empire, he had not since that time demeaned himself modestly, but was often taken notice of to whisper matters relating to that Affair, and frequently to entertain the Officers. The day following *Bimfes*, a Noble *Persian*, zealous to perform with all expedition what his King had enjoined, earnestly pressed the Emperor for Performance of the Conditions of the Peace, and he accordingly permitted him to enter the Castle, he required all the Inhabitants to be gone, who now earnestly besought *Fovian*, that they might not be compelled to quit their Native Seat, affirming that they themselves were able, without any publick Charge, to defend the place: but he was not to be moved in the point, lest he should incur the Crime of Perjury, as he pretended, but indeed fearing other things, if he believe *Ammianus* and others. This caused *Sabinus*, a Townsman of chiefest Eminency both for Birth and Riches, to lay openly, That *Constantius*, though sometimes beaten by the *Persian* in so heavy a War as lay upon him, and driven to so great necessity, as in his flight to feed on a Crust of Bread, which he begged of an old Country Woman; yet to his dying day had lost nothing of his Territories: Whereas *Fovian* in the very beginning of his Reign had parted with the very Bulwark of his Provinces; which in former times had still been protected by the vigorous Opposition of his Town. But the Emperor was deaf to all that could be said, still urging his Oath, and the Inviolability of it. And now he was presented with a Crown, which after earnest refusal, when he had at length accepted, one *Sylvanus*, an Advocate, with great confidence cried out, *So maist thou, O Emperor, be crowned by the rest of the Cities.*

A miserable sight of the Inhabitants quitting the City.

8. Exasperated herewith he commanded all within three days to leave the Town, and appointed a Party of Souldiers to turn them out, who threatening all that refused with Death, the Walls and all the Streets were crowded with a Multitude, which by Tears and other signs shewed all Passion imaginable, and embraced the very Doors and Posts of the Houses at their Farewel. As every one could most commodiously dispose of himself and his, forth they passed; but being turned out in haste, they hurried away some of their best things, and the rest of their stuff, though much in quantity and of great value, they left behind for want of Beasts to convey it. Here our Historian falls into an Exploitation with the Fortune of *Rome*, not so much for the Qualification of the person to whom he had committed the Reins of Government, as for the Circumstances under which he lay in reference to a Rival, the fear of which caused him, out of a desire to come into the Western parts to neglect *Nisibis*, and easily give up that City, which ever since the days of *Mithridates* had preserved the East from being overrun by the *Persians*. He repeats his Observation, how the *Romans* never from the Foundation of the City parted with their Territories; and approves of their ever breaking an Ignominious Peace.

9. The Inhabitants being driven out, the City was delivered up, and together with it all the Forts in the Country, by *Constantius* the Tribune. Now was *Procopius* sent with the Body of *Julian* to be buried in the Suburbs of *Tarsus*, as he had ordained;

In hoc erore fuit videri Jovianem Annot. in locum.

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Sect. I.

How matters
were in Gaul
upon the Ne-
gociation of the Mel-
fians.

dained; which having performed he went away, hid himself, and never was discovered though diligently sought for; till long after he suddenly appeared in Purple at *Constantinople*. These things thus appointed, after a March of several days, at length they reached *Antioch*, where after a very little stay *Jovian*, now distracted with various Cares desired to begone, and sparing neither Man nor Beast came in a very cold season, and hardest Winter weather to *Tarfus* in *Cilicia*. Having given order for the beautifying of *Julian's* Tomb, (whence his Body, as some write, was afterward removed to *Constantinople*) he proceeded thence by great Journeys as far as *Tyana*, a Town of *Cappadocia*, and there *Procopius* the Notary, and *Memorius* the Tribune, met him, and gave him an account of their Negotiation; though *Lucilianus* (through procurement of a corrupt Officer) was killed by the Souldiers. For, having entered *Milan* with *Seniachus* and *Valentinian*, two Tribunes, when he understood that *Malarich* refused to accept of the place of *Magister Militum*, he halted away to *Rheims*, where applying himself unfeignably, while matters were not yet settled, to examine the Accounts of one that had been an *Attuary*, this man conscious of his Frauds, ran away to the Souldiers, and making them believe, that *Julian* was still alive, so incited them against him as a Traitor, that in a Tumult they killed him and *Seniachus* too; but *Valentinian*, who was afterward Emperor, escaped by the care and direction of him with whom he lodged. This ill News was something sweetened by better out of *Gall*, where the Souldiers willingly owned the new Emperor. To *Valentinian*, who came along with the Messengers, was given the Command of the second *Schole* of the *Scutarii*. *Vitalianus*, one of the Company called *Heruli*, who long after was honoured with the Dignity of *Comes*, and managed matters badly in *Alyricum*, was made one of the *Domestic Profectors*. And *Avinthus* was sent away with all speed to succeed *Jovianus* in *Gall*, upon refusal of *Malarich*, with Orders to animadvert severely upon such as should be Tumultuous, and send up in Chains to the Court those that should be Authors of any Seditious Attempt.

Jovian is
Conful with
Varronian his
Son.

And dies sud-
denly.

10. Being arrived at *Ancyra*, and providing for the Solemnity as the Time would permit, he there entered his Consulship, wherein he alluded as Colleague *Varronian* his Son, (for his Father whom he intended was dead whilst he was upon the way) a very young Child, who cried and struggled when he came to be carried in the Curule Chair, according to the Custom; and being by no means to be kept in it, thereby was portended in the Opinion of our Author, what followed very soon after. For, *Jovian* still travelling westward, and coming to *Badastana*, a Town situate upon the Borders of *Bithynia* and *Galatia*, was there found dead in the night, and afforded matter for various Discourse: Some said he was stifled by the Dampness of his Chamber, which had been newly plattered; others by the Smoke of Coles, of which Histories indeed and the Books of Physicians afford us many Examples, nothing being more suffocating than the Vapour of Charcole, especially joyned with the Steam of fresh Lime or Plaster) and some conceived it might come from a Surfeit. But there were not wanting, who thought him spent by the tediousness of the Journey's and *Sorceries* written, that it was by a stoppage in the Lungs, which might be occasioned by the former external causes. Heads, that at this place he was met by some Senators of those of the greatest Nobility, amongst whom was *Themisius* the Philosopher, who then spake before him his Oration intitled *Consul*, which afterward he rehearsed at *Constantinople* in the Audience of the whole Multitude. *Amianus* observes, that *Jovian* and *Scipio Amilianus* had one and the same kind of End, and that no Inquisition was made after the Death of either of them. As for his Character he adds, that in doing business after Dinner, and in jesting merrily and freely with those about him, he chose to imitate *Constantinus*. That he was studious of the *Christian* Religion, sometimes Magnificent, indifferently well Learned, very good natur'd, and probably (had he lived) would have had a careful regard to the making of Officers, as might be judged by those few he had only time to promote. As to Vice, that he was given to Gluttony, Wine, and Women, which Faults he thinks might have been corrected by a sense of his present high Condition. *Europsius* writes, that setting aside the Peace he made with the *Persian*, he was otherwise neither a Coward nor Imprudent; that he was courteous, and naturally liberal: and with his Death he concludes his Ten Books, being an Abridgment of the *Roman* History, having himself been also present in this Expedition. *Pictor* describes him as beautiful in Body, pleasant in Conversation, and studious of Learning. *Amianus* faith, he was very tall, and his Limbs of a proportionable largeness, so that scarcely could an Imperial Habit be found fit for him; of grave Gesture, pleasant Countenance, and gray-ey'd.

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Jovianus &
Varronianus
Confi.

Alii scrip-
tunt, cum con-
sulis pinguis re-
centibus vacan-
tibus necant
fuisse.
Jovianus
affirmat, vacan-
tibus patient
essentibus, fuisse
Varronianum
pre laudatione
tum dignum
nummum, ali-
terum oculum
vatum esse.
Hic non ob-
scure laudat,
cum proximo
cum iudicio
frangulum
fuisse. Vide
Vidit.

Sect. I.

Laws by their
Dates seeming
to have been
made by him.

11. So died *Jovian* in the eighth Moneth of his Reign; and such is the Character given of him, which can amount to little on any account, none being able to say how he might have proved, as neither his Predecessor himself, had they had those Opportunities and Temptations, for practice of good and evil, which are wont to be plentifully afforded in long Governments. Some Laws there are extant in *Theodosius* his Code, which are wont to be ascribed to *Julian*; but the Dates of them (if true) evidently shewing, that they were made after his Death, they are to be restored to *Jovian* as their Author, with an account of what they principally concerned. *Julian* died as we have seen in the Moneth of *June*, and yet there are several Edicts said to be his, though dated in that of *October* and after. By the first of them, what Writers tell us concerning the Luxury of this Age, and that particularly as to Building, is somewhat illustrated. *Amianus* taxes the Souldiers, amongst other things, for not being satisfied without they lived in Marble Houses; and by a Law of *Julian*, which we have already mentioned, concerning *Africa*, it appears how the *Cursus publicus* was wont to be burthened by conveyance of this kind of Stone in that Province for private Buildings. Most commonly it hath been found, that Hospitality and other good qualities have gone down most, when stately Houses have gone first up; yet however this tending to the Ornament and Beauty of the Empire, whether *Julian* or *Jovian* was the Author, an Edict was made, by which for prevention of the scarcity and dearth of Marble, Licence was granted to every one that pleased to dig for it, that by that means many good Veins might be discovered. But if the Date would permit it, it might easily be guessed that *Julian* made this Edict, and thereby aimed at the rebuilding and ornament of the *Pagan* Temples, more than the lustre of other Buildings. Whether he made this Law or not, that he was no Author of the next which follows, there are more than one convincing Arguments. As it was the Custom of bountiful Princes to give or assign Lands or Estates to private persons, as they saw occasion; so was it usual, and with very good reason, that when the Treasury was exhausted, and there was pressing occasion for Money, an Imposition of Gold or Silver was laid upon those Estates, which having been received in free gift, it was much more reasonable that they should be charged than the Inheritances of other persons, or such Possessions as they had purchased by their Care and Labour. Now hereupon arose a Case, whether if such Impositions were to be laid upon such Lands thus freely given, they were not also to be extended to others, that had been confiscated, and for such Reasons as pleased the Prince, had been a Edict restored to the former Owners or their Children. This question by an Edict directed to *Agnatius* the *Consularis* of *Byzaceda* from *Mopsuestia*, on the twelfth of *November*, the Emperor decides in behalf of those to whom such Lands were restored. He affirms it absurd and not agreeable with the Tranquillity of his time, that such as had been proscribed should be rendered obnoxious to the Collations of Gold and Silver, which had been imposed by *Constantinus*, of Blessed Memory; for as much as there is a vast difference betwixt those that enjoyed what they had by the Munificence of the Prince, and such as had deserved to have their own restored to them. Indeed the Law is so favourable in this case generally, that restored Estates seem as if they had never been taken away; and Restitution doth not create any new Title, but causeth the old one to return, and to be in force, as the Interpreters of the *Fundal* Laws affirm, when a Vassal is pardoned by his Lord, that no new Grant is to be made of his Fee, but the old Tenure only renewed; and a Fee which hath been forfeited and restored, is not to be accounted to have belonged to the Lords Domain, or by any such Forfeiture incorporated with it. Observable it is, that to *Constantinus* is attributed the laying of the Impositions upon Lands freely given by the Prince, and reason he had to lay them, he and his Father having granted many Possessions and Goods, formerly belonging to the Temples of Idols, as the *Pagans* in vain complained. For this reason we may be assured *Julian* would never have said he was *Divus Memorius*, or of Memory suitable to that of their *Divi*, being so far from it, that having an inveterate grudge to *Chi* and *Chappa*, he ever upon occasion makes mention of him and his Father without any note of Honour, as other Princes of what Religion (soever, are wont to do toward their Predecessors. Nay, sometimes when he abrogates their Constitutions, he will not deign so much as to name them. This is a sufficient proof that he was not Author of this Edict, which bearing Date from *Mopsuestia*, further evinceth its Original to have been from *Jovian*. For we see that *Jovian* from *Antioch* travelled into *Cilicia*, a Town of which Region was this *Mopsuestia*, so called from being the Habitation of *Mopsus*, an old Poet or Father of those Quarters.

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L. de Metall.
& Metallarius
Cod. Tit. 12.
tit. 19. Abili
ad Tempora.

L. de Colla-
tionem Donata-
rum, Gr.
Cod. Tit. 11.
tit. 20. Affert
huius tit. L. de
omnes & Cod.
Jul. tit. 10. de
colla tit. 12.
colla tit. 12.
vita Theodosii
33. Vide Gr.
Iust. in l.

SECT. I.
One against
the Frauds of
the *Numarii*.

12. On the twenty seventh of November following was published at *Viminacium*, a City of *Ilyricum*, and directed to *Mamertinus, Prefectus Prætorio* of that District, an Edict against the Frauds of the *Numarii*, who had the management of Tributes in their hands, and thence opportunity to do very great mischief. As *Fulian* formerly, so now he subjects them to torture in Examinations, a course taken only with vile or mean persons, and not only those that were meanest in condition, but even such as belonged to the *Prefectus Prætorio*, and this reason is given for it, that they were wont to have *Auditores* or Assistants, who were not to be endangered or prejudiced by their Accounts, but each one was to stand upon his own Legs. On the ninth of December another Edict bears Date made in behalf of the *Senarii*: These were a Body, Company, or Society of men, whose Employment it was to provide Hogs Flesh for the Service of the People of *Rome*, or of *Constantinople*, and that it seems from the time of *Aurélian* the Emperor, to whom is ascribed the first and free Allowance of this sort of Flesh to the *Romans*, being divided and distributed man by man. For there were certain Provinces of *Italy*, in which the Possessors of the Lands paid an annual quantity of *Lard* or Hogs Flesh in way of Tribute; as *Campania, Lucania, Brutium, and Samnium*. And though at last it was paid, *in specie*, yet afterward *Constantine* left it to the discretion of the Countreymen themselves, whether they would pay it so, or the value of it in Money, to prevent Abuses frequently committed by the *Senarii*, in reference to the Weight thereof; for it was ever to be weighed, and they were not to trust their Eyes alone in this matter. When Money was paid, it was to be at Market-rates, or at such prices as then were usually paid in the several places. Such order did *Constantine* take; who also to supply the Number of those *Senarii*, which in his days was very much lessened, forbade any to be executed from the Charge, either by pretence of any Dignity, or any Rescript of the Prince himself. And as for those who had already deserted their station, he commanded they should either be forced back to the Service, or hire others to discharge it for them. But still it was in the power of the Tenants to pay *in specie* or in Money, as was said. Now by another Constitution belonging to *Jovian* or *Fulian*, and directed to *Apronianus, Prefect* of the City, Money is ordered to be paid in *Campania*, in lieu of all such Flesh; and a Method and Standard is declared as to the Payment: wherein could be no such miscarriage, as in the weight and conveyance of it *in specie*. A Market-rate was to be allowed by the Tenants to the *Senarii*, (who at their own peril should therewith provide Flesh it self for the People) not exceeding six *Folles* for every Pound, (the Silver sort of *Folles* are here to be understood,) which whosoever exacted above, should be bound to pay so much to the Treasury. But whereas it was found by experience, that the Officials of the greater Officers were wont to be burthened to the Provincials, and make use of their power to harraile and fright them out of their Money; Order now is hereby taken, that neither those belonging to the *Prefect* of the City gather this Money, nor the *Senarii* themselves, but the Officers of the ordinary Governor, or the *Consularis* of *Campania*, who at his own peril waste to see to the due management of the Levy and Return of the Money which was to be paid, as the Market went in *Campania* it self, and not as the Price held at *Rome*. And *Campania* here seems especially to be mentioned, both because it served *Rome*, as a mighty Storehouse, with Hogs Flesh, (as also it did with Wine and other things;) and for that it was under the Jurisdiction of the *Prefect* of the City, being part of the *Urbicarian Diocese*. This Law might well enough be *Fulian's*, and a mistake made in the Date thereof. But another follows, which is rather to be ascribed to his Successors, as contrary to his Humour so violently bent to force persons to the Services of Corporations. For this Edict dated at *Antioch* on the one and twentieth of December, excuseth from such Services such as had served as Souldiers upon the Limits, for the space of ten years, being intended as an Encouragement to them that had ventured their Lives against the *Persian*. In favour of these Souldiers *Jovian* made another Law concerning their gathering of Forage; for as *Fulian*, to ensure them to Labour, had yielded they might fetch it at twenty miles distance, that they might not be too much put to it, and be too long from their Colours, he ordains, that they be not forced to fetch it any further.

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Vide Variat.
las & L.L.L.
46d. Th. 14.
de Senariis,
causis, &c.

Valentinian
chosen Em-
peror.

Reprefeth by
a speech such
as would have
him had a
Colleague out
of hand.

L.S. 6. de Dero-
nibus Col.
Th. 14. 14. 14.
Th. 14. 14. 14.
L.S. 6. de Dero-
nibus Col.
Th. 14. 14. 14.
L.S. 6. de Dero-
nibus Col.
Th. 14. 14. 14.

SECT.

SECT. II.

From the Death of Jovian to that of Valentinian, preceding
the Irruption of the Barbarous Nations into the Empire.
The space of Eleven Tears and some Ten Moneths.

1. THE Body of the deceased Emperor being with due Rites prepared and sent to *Constantinople*, to be interred with his Predecessors, the Army dislodged and came to *Nice*, the Metropolis of *Bithynia*. There the Officers falling into a serious Debate about the Election of a new Prince; one *Equitinus*, an odd-humoured man, Tribune of the first *Schole* of the *Senarii*, was named by some few of the meaner sort, but quickly rejected; and after him *Favarius*, one joyned in Affinity with *Jovian*, and then commanding in *Ilyricum*; but he being neither approved because so far off, *Valentinian* was chosen by universal consent, at this time Tribune of the second *Schole* of the *Senarii*, and left at *Anagya*, with Orders to follow after *Jovian*. He was the Son of one *Gratian* a *Pannonian* of the City *Cibale*, and surnamed *Junacius*, for that five Souldiers were not able to wrest from him a Rope he carried in his hands: and upon this account being taken into the Army, afterwards carried to great Preference. Messengers were dispatched away for *Valentinian*, but being at such a distance, for ten days space there was none that fate at the Helm of the Commonwealth; only *Equinus* and *Leo*, who served under *Dagalaiphus* the *Magister Equitum*, in the Accounts of the Army, took as much care as they could for securing his Interest till his Arrival. Coming to *Nice* he would not stir out nor be seen on the *Bisextile Day*, as unlucky to the *Romans*. Towards Evening, by the Advice of *Salust* the *Prefect*, command was given, that under Pain of Death none of the greatest Quality, or suspected to affect the Empire, should stir out the next morning: But as soon as it was Light all the Army was drawn together in the Camp, and *Valentinian* ascending a lofty Tribunal was declared Emperor, adorned with the Imperial Habit, and saluted *Augustus*, on the fifth before the Calends of *March*. Preparing to make a Speech, when he stretched out his Arms to gain Affection, a Seditious Noise arose amongst the ordinary Souldiers, who required that another or second Emperor might be chosen. This at first was looked on as a matter of no moment, and procured by some of the Malecontents: but the Stir continuing, and growing more violent, there was just reason to apprehend an universal Tumult. Which *Valentinian* having more cause to fear than any other, yet courageously against lifting up his right hand, adventured to check some he perceived to be more peremptory and unquiet, and after a little disturbance got the liberty of going thorough his Harangue to this purpose.

2. I exceedingly applaud my self, and ever shall, you most Valiant Defenders of the Provinces, in the favour you have conferred upon me, by devolving on me the Government of the *Roman* World, when I neither expected nor desired it. What was in your own power, while the Choice was not yet made, you have (I hope) laudably bestowed, having preferred to the highest Pitch of Honour a Person, whom from his Youth hitherto you have experimentally known to have lived as unblameably, so not without Splendour. Attend therefore quietly, I beseech you, to what (though with mean Expressions) I shall propound to you for the Publick Good. Considering and weighing with my self as a Man, what the heavy Burthen of Empire is, and the Multiplicity of Accidents ever attending so great a Charge, I nothing doubt or contradict, but that having a Colleague is very proper for all Events. But we are especially concerned to aim at Concord, by virtue whereof even mean and contemptible Beginnings receive strength and growth. And this will easily be compassed, if you will have but a little patience, and permit me to buckle to mine Impiment. I hope Fortune, that is wont to assist good Councils, will give me Temper and Moderation, after which I assure you I shall most earnestly aspire. For as wise men say, Not onely in Government, wherein Dan- gers are both greater and more imminent; but also in private and ordinary Affairs, it may behove a man to unite with one, whom he formerly judged his Enemy, but not esteem him as such, after he is once united with him. On my part I promise you all good Offices, and require that, continuing constant and loyal, you refresh

F f

your

Sect. 2.

By another they call the Sons of Veterani into the Field.

Much zeal they show for the services of the curia.

Encourage the Nativari.

rouers were in motion. The *Veterani*, or *Emerite* Souldiers, as we formerly hinted, enjoyed such great Privileges, that when there was any vehement occasion which pressed the Empire to a greater, and more sordain supply than ordinary; their Sons were called out to service, and that as is thought, first by an Edict of *Constantine* the Great, upon occasion of the *Sarmatian* War; whose Example his Successors followed, by publishing their Letters of Summons throughout the Cities, upon such emergencies. This now doth *Valentinian*; and to encourage them, declares, that they shall have the Pay, not usually given to *Troves*, or new raised men, but such as was due to those that had served a longer time; which was larger than the other: If these Sons of the *Veterani* were unfit for the Wars, by reason of their want of health, the inability of their Bodies, or the unproportionableness of their stature or limbs, that then they should be bestowed in other Employments, as amongst the *Officiales* of the *Proconsuls*, *Consulares*, *Correttores* and *Presidents*; in case they refused to serve in the Wars, having none of these defects nor excuses, he subjects them to the services of Corporations; but not such as were utterly rendered unfit by any disease, or other necessary Impediment.

19. For the service of Corporations, he shewed also much Zeal, the Splendour of them, as he himself faith, being a thing very acceptable to him; and in order to this, the very next Edict now mentioned in the *Code*, was ordained by him. But he proceeded in a middle way, without those extravagancies committed by *Julian*. For the nomination of the *Curiales*, he thought fit afterwards, that none should be made such, but those that were chosen by the *Curia* themselves; inasmuch, that by way of punishment he would have none condemned to those Offices, no not the *Tabularii*, who in due time had not given up their Accounts. But even Merchants themselves, if they were owners of any Lands, he permits to be nominated to these Services, and commands the Sons of the *Veterani*, who had been *Curiales*, to be appointed to these Employments. The Employments, or Burthens, he will have by degrees imposed on the *Curiales*, and not for them to begin with the greatest. From them none should be excused by any Dignity: namely, that no *Curialis* should be admitted a *Senator*, or enjoy the privileges of that Order, till such time as he had passed through all the Offices, not be received to the Government of a Province, except he had obtained both *Senatorial* Dignity, and the Government together, or been privileged by some *Palatine* service; and even then he must substitute his Sons in his room. By warfare none should excuse himself, except he had therein served five years, and yet, in such case his Sons must also attend the service of the Corporation for him. Not by being in Orders, without passing away his Estate to one that should succeed him; or to the *Curia* it self. Neither by betraying ones self to the Body or Company of those belonging to the *Fabricks*. The Privileges of the *Curiales* this Emperor also Confirms; and especially of those that Exercised amongst them the Pagan Priesthood, or were Principals, saving them harmless from all injuries, and dispensing with them from being forced to appear any where beyond the bounds of their own Corporation. These and other particulars appear in those eighteen several Constitutions made by *Valentinian* concerning this Subject, and still extant; from consideration of which *Gothofred* justly wonders both at *Libanius*, and *Ammianus Marcellinus*, who with so many words complain of the defolation of Corporations, after the death of *Julian*; which they would have to have been so great, that in some of them but one *Curialis*, or three at the most, were remaining. What Accidents might happen in some certain places, in so vast a Compas as that of the *Roman* World, none can determine; but in general, we are to believe the Laws still extant, rather than heed their great Zeal to the memory of their *Julian*, who also was out, as to this point of Government, and that by the confession of the most ingenious of those two Persons.

20. And many other things there were innovated by him, which *Valentinian* now found reason to repeal; and, at the beginning of his Reign, to put them into their former course. From another Law made at *Hadrianople*, in the thirteenth of *March* it should seem, that he had lessened the Privileges of some of the Companies appertaining to the City of *Rome*, and particularly of the *Nauicularii*, of whom some belonged to *Africa*. It was their work to bring wood for the supply of the Baths, and other publick services of that City, which not being in capacity to be well furnished, but by encouragement of those whose duty it was to convey such necessities, *Valentinian* now renews the Privileges formerly granted to them, as not long after by another Edict, all Immunities whatsoever which had been given to any Bodies or Companies of *Rome* by the old Laws, or any of his Predecessors. As most Emperours, who expressed zeal for the Publick Service,

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L. 57. de Decurionibus v. de Gothof. in L. 1. de L. 1. de Curialibus. Cod. Th. lib. 8. Tit. 4.

vide qua affert Goth. in L. 1. de Novellis.

L. 1. de Privilegiis Corporationum v. Romæ. Cod. Th. lib. 1. Tit. 4.

Sect. 2.

Regulate the Curia publicæ.

The Power of the Prefecti Prætoris increased.

Valentinian takes care for providing Rums of Necessaries.

were wont to have a special regard to the *Curia publicæ*, to direct the use thereof, and prevent the too great Burthen of it. So he by eighteen several Constitutions demonstrated his care as to this particular, of which eighteen no fewer than eleven he made within the bounds of very little more than one and his first year. By one directed to *Symmachus*, *Prefect* of *Rome*, he abridges the Liberty formerly used by him or his Predecessors, in granting the use thereof, restraining it only to necessary cases, wherein Power was also wont to be given to Governors of Provinces, to grant the same Licence. But from this as well as other Instances may be seen, how contracted the Power of the *Prefecti* of the City was at this time, when that of the *Prefecti Prætoris* daily increased. Had not *Constantine* lessened their Authority, how dangerous it would have been to those who bore the Title of Emperours, evidently hence appears; that notwithstanding the Diminution, yet again they got very much ground in the Advancement of their Power. About this very time by several Laws *Valentinian* confirms the Custom of their examining such Petitions or Complaints, as were to be sent to himself from the Cities or Provinces, requiring that first they should be brought to the Governors of the Countries or ordinary Judges, and there be entered in their Offices; but thence transmitted, without any alteration or diminution, to the *Prefectus Prætorio*, who examining the matter, should therein take order of his own Authority, if it might be done; or else, transmit them to the Emperor himself, if he thought them fit for his notice. If so he doth, he will have but one Messenger of the City or Province to come along with the *Militive*, both for saving Expence, and to prevent the Burthening of the *Curia publicæ*. Yet sometimes, as appears by History, more Persons were wont to be sent on those Errands.

21. But amongst the Laws he made at this time, very remarkable is one large Constitution, whereby he demonstrated his extraordinary care for supplying with Victuals the City of *Rome*, which now, as we may therefore collect, was under some pressure in reference to Provisions. 'Therein he takes order that the People shall be served with good Bread, regulates matters belonging to the publick Bakers, who were a Company obliged (both they and their Children) to this Service; provides for the supply of Corn, the Repair of the publick Granaries, and the Privileges of those who burne the Lime for such publick uses. There was yearly a great quantity of Grain brought to *Rome* out of *Africa*, *Sicily*, and *Sardinia* especially; of which some (as we have already hinted) was made into Bread, and gratis bestowed on the People by the Emperours, called *Panis Gradulæ*, and the rest was sold by the Bakers; and with it made that styled *Panis Obfensilis*, who had their Store-houses in the City for the keeping of it, (at this time about three hundred.) And of this *Valentinian* orders two hundred thousand *Modii*, and no more, of the very best; to be sold them at reasonable rates, that they might not obstruct ill Bread up on the Citizens. Further, lest any Deceit should be used in the Conveyance, he will have the Corn to be carried by the ordinary Porters belonging to the Wharf; and that there might not want Assistance at the Bakehouses, as *Constantine* the Great had ordained; That such as were condemned for lesser Crimes should be sent to those Houses, he renews or reinforces the Law in this particular. And this same year upon his travelling Westward, when he granted a General Pardon and Indemnity, he yet excepted out of it such as had been condemned to this Drudgery. And lastly, lest any of the Corn wont to be brought to *Rome* should be converted, he absolutely forbids any Money to be received in the room thereof. All this Endeavour of his for supply of *Rome* was promoted by *Symmachus*, who was now *Prefect* of that City, to whom these Laws are directed, and of whom *Ammianus* gives this Testimony, That having succeeded *Apronianus*, he made all things more plentiful therethan usual, and built a strong and most beautiful Bridge, to the great contentment of the People. This we must conclude was with the knowledge and consent of the Emperor, because this very year by another Edict directed to him, he forbids any new Work to be raised in that City without his Order, although he gives free leave to repair any Building that was decayed.

22. But though such was his Resolution in relation to *Rome*, which being too great already, there was reason to restrain the Extravagancy of Building, he made shortly after another Law, importing a quite contrary Command, because relating to another place, and for a quite different reason. He and his Brother now lay at *Naissus* or *Mediana*, three miles distant from it, and near to that part of *Dacia* called *Dacia Ripensis*; but now they were ready to part, the Barbarous Nations were all up round about, and these Quarters were threatened with the Inroads of the *Goths* amongst others. For the safety of them therefore he directs an Edict to *Zastomades*, the

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L. 17. 18. de Curia publicæ. Th. 8. tit. 5. L. 19.

L. 34. de Legibus & Decretis. Cod. Th. lib. 1. tit. 12.

L. 34. de Diffinitione L. 2. de Calce Collationis. Vide Chronol. legum ad An. 354.

Causa Frumentaria. L. 1. de Decretis. Promissoria v. Romæ. Cod. Th. lib. 1. tit. 15.

L. 5. 6. 7. de Panis. Cod. Th. lib. 1. tit. 15.

L. 8. de Annat & Tributus. Cod. Th. lib. 1. tit. 1.

L. 1. de Operibus publicis. Cod. Th.

Sept. 2.

Horatii, who
they were.

**The Use of
Horses forbid-
den.**

Except to
Soldiers.

Great Privileges and Immunities to Veterans or Emeriti Soldiers.

charge of others, afforded to the People by the Judges themselves. Moreover there was great Robbing practis'd at this time in *Italy*, which indeed never was, nor at this present is free from *Banditti*; for prevention whereof, when other means failed, *Valerianus* resolv'd to forbid even the Use of Horfes, as that which especially conduced to the motions of those seditious Incursions, and the speedy retiring of the Thieves to their lurking places. The Use and having of Horfes he prohibits to all the Inhabitants of these Provinces, *viz.* *Picenum, Flaminia, Apulia, Calabria, Bruttii, Lucania* and *Sauntium*, five sorts of Persons excepted, these were *Senators, the Honorati, the Governours of Provinces, the Veterani, or Emeriti Soldiers, and Decuriones*, the several ranks and conditions of whom he concluded would put them upon higher designs than those of Robbing. Particularly, the *Honorati* were such as had born Honourable Offices, whether Military or Civil, were not of the *Curie* or Corporations, as some have mistakn ; but others, to whom were equal in Dignity the Principals or *Primates* in the Cities, though sometimes the *Honorati* be also compar'd with *Senators*. For those in the Country, or the *Provincials* as they are ordinarily call'd, were usually distinguish'd into the three Ranks of *Honorati, Decuriones, Possessors*, or Freeholders, and *Coloni* or Tenants. But besides the true and Original sort of the *Honorati*, who had born Offices, there was another which obtained this Degree, by the Letters Patents of the Prince. Both sorts had many Privileges, as of entering the Towns and Cities in their Chariots, Leave to come to the Senate-House, and sitting on the Bench with Judges; except they themselves had Causes to be heard. In this Case, *Zeno* the Emperour appointed them a place below the Judges, but above the common Crowd ; as is now practis'd in *France* towards Princes themselves, when their matters are heard in the Chambers of Justice. But as to this Law against the Use of Horfes, it seems to have been chiefly occasioned by the great Droves of Cattel, with which some of these Countries, to which it hath relation, very much abounded. And for this Reason, five days after the Date of it, by another Constitution, he provided for the security of *Campania*, which pleasant and fruitful Country was also full of Cattel, and serv'd *Rome* with Provisions. To prevent the stealing and driving off them away, he forbids the Use of Horfes, both to those that looked to his own Herds there, and to the Stewards and Officers of *Senators*, who were apt to bear them selves high upon the Grandeur of their Masters, and prohibits the travelling abroad with any sort of Weapon to all in general ; such only excepted as should obtain Leave of wearing them from himself.

26. But ever must it be supposed that Soldiers were also to be excepted from this Inhibition, who were not bound to lay down Arms, till diffimified by Authority, or that they had served up their time, and were become *Emerite* or *Veteranes*. To these either he or his Brother had now an especial regard; and as they deserved maintenance and due Incouragement, to fix and ascertain it, they published another Constitution, at the latter end of this year, whereby to all their Subjects, or Provin.ials in general, they made known the Confirmation of fix several Priviledges, or Inlances of their Munificence unto them. The first is that they may chuse their Habitation where they please; which to all it was unlawful to do without the Indulgence or Leave of the Prince. In the second place they give them Immunity from all Civil and Personall Charges or Services, or rather confirm that which had been granted by former Laws. In the next they permit them to seize to their own Use any Vacant Lands as they were termed, or such as were derelict or owned no Masters, which, within so vast a compass as that of the *Roman* Empire, must often fall to the Publick, and for these Lands, or others they possessed, they should pay no Rents, or yearly acknowledgement. And fifthly, for the improvement of those grounds, they shall receive at the publick expence, from the Governours of Provinces, both Cattel to till, and Seed wherewith to sow them, which provision *Constantine* the Great, had formerly made, but not in the same proportion. For whereas he, without any distinction, had ordered to each *Vetane* one yoke of Oxen, and an hundred *Modii* of Corn; they by this Edict both increase the Allowance in some sort, and make a difference of Persons, allotting to such as had the Dignity of *Protectors*, two pair of Oxen, and an hundred *Modii* of Grain, and to the rest one pair a piece, and fifty *Modii*. For such as enjoyed the honour of *Protectors*, were in several respects more privileged than the rest: In criminal Causes they were not judged by the ordinary Magistrates, but by the *Præfides Pretorio*, and had larger Immunities both from that called *Iustitralis Collatio*, and the ordinary *Confis*. And in the last place they grant them Immunities for their Slaves, and Families, which they should bring upon such Lands

A.D.
3 6 4.

L. 1. Equibus t.
quorum usus
concessus est,
C. Cod. Th. lib.
9. Tit. 30. Absq.
à Cod. Just. ut
ceteræ omnes
leges hujus Ti-
tuli.

De Honoratis
vide sūsus dis-
serentem Gothof.
ad L. un. de Offi-
cio Judic. Civi-
lium Cod. Th.
lib. 1. Tit. 8.

*De Honoratis
vide fufius dif-
ferentem Gothof.
ad L. un. de Offi-
cio Judic. c. vi.
lium Cod. Th.
lib. 1. Tit. 8.*

L. 2. Quibus E-
quorum usus
&c. & L. unic.
Quorum usus
interdictus est.
lex unica. Cod.
Just. cod. tit.

L. 8. de Vetera
nis Cod. Th. lib.
7. Tit. 20. Dat.
15. Kal. Decemb.
Divo Joviano
& Varroniano
Coss. vide Com.

Chap.2.

Sect. 2.

He is kind to
the Children
of condemned
persons, by an
Edict in their
behalf.

*Valen? re-
forms an ill
Custom of
Oppression
used by the
Messengers o
good News.*

Entercourse
betwixt *Va-*
lens and the
Nations bor-
dering upon
Aegypt.

Lands. This Constitution containing a more full Enumeration of the Privileges of those old Souldiers, of whom and of which we often make mention, is more than ordinarily to be taken notice of.

15. As *Valentinian* hereby took care for the Reward of such as had well deſerved of the publick; ſo by another Ediſt dated a few days after, he provided againſt the immoderate puniſhment of ſuch as had been offenders againſt the Laws. *Conſtantius* had formerly granted the Eſtates of condemned perſons, the Crime of Treason only excepted, to their Children if any could be found within three Degrees or Defcents; but he by this Ediſt extends it to all their Poſterity without exception; *as* ſo as not onely *Poſthumus* are thereby included, but even all Defcendents in *infinitum*. And now this year, which fill bore the Names of *Fovius* and *Varonianus*, his Son, drew to an end, and gave way to the firſt Conſulſhip of the two Brothers. It was the Cuſtom, that upon the Deſignation of new Conſuls Meſſengers were wont to be ſent into the Provinces with the News; as alſo upon any other occaſion of publick Joy, as of a Victory, the Triumphs of the Emperours, making of Peace, and other matters. Theſe Meſſengers were alſo wont to exact Money as a Reward from the poor and mean, as well as from the rich, which was termed *Sportula*; and this was alſo wont to be taxed or levied by the Governours of the Provinces, which proved a great Vexation and Burthen to poor people, as *Ammianus* complains of it in the time of *Conſtantius*. If Credit may be given to the Flouriſhes of *Libanius*, *Julian* had reformed this Abule, although no Laws we find of his made upon this ſubject: However it was now become ſo grievous and intolerable, that *Valens* lying at *Conſtantinople*, fifteen days before he entered upon the Conſulſhip, thought fit by an Ediſt to obviate this impending Miſchief. Thereby he commands, that when upon occaſion of any new Conſuls ſuch Meſſengers were ſent abroad, upon their behalf no Impoſition ſhould be laid, nor any one dare to exact or require any Contribution. Indeed if any of the *Honorati* or *Curiales* would of their own accord give any thing, they might freely do it. In caſe any Governour of a Province laid any ſuch Impoſition, ſuffered it to be exacted, or connived at any perſon offending againſt this Law, he fines him in twenty pounds of Gold, and his Officers in forty. Now this might have its deſired effect upon the Eaſtern Parts, and in the Diſtrict of *Valens*: But it ſeems it reached not that of *Valentinian*, nor had that Operation to prevent another Ediſt of his, which bears date on the eleventh of *January* following, and conſequently of his aſſumed Conſulſhip. By this Law, *as* to the Meſſage about new Conſuls he adds Victory, which probably at this time he had obtained over the *Alemans* in *Gall*, and other publick Rejoycings; and *as* to the Penalty, will have the Governours pay the double of what was given, and their Officers four fold. And this by a ſecond Conſtitution dated from the ſame place, after four years he reinforces; but neither in it, in this whereof we now ſpeak, nor that preceding of *Valens*, is there any Penalty laid upon the Meſſengers themſelves: Which Defect being juſtly to be wondered at, *Theodolius* the Great afterward ſupplied. Obſervable it is, that to thoſe *Apoſtles* or Meſſengers of good tidings, the word *Euangleij* or Meſſage of good tidings in the Goſpel aluſeth, and many things contained in the Scripture, wherein *S. Paul*, in the Prefaces to his Epiſtles, ſhews how far that of our Saviour excels all other *Euangleijes* whatſoever, it proceeding not from any mortal man, as was the *Roman* Emperour, but from God himſelf; not concerning any ſudden Accident lately befallen, but what was long expected, not concerning any Earthly Kingdom, or the Birth of an Emperours Son, but an Heavenly one, and the Son of God, with other Inſtances noted by Learned *Gothofred*, out of that *Apoſtles* Writings.

16. About this time fome Entercoure was paffed betwixt *Valens*; and the Nations bordering upon *Aegypt*, without the Pale of the *Roman* Empire. For, four days before his Entrance into the Confullhip, or the twenty eighth of *December*, he figned an Edict to *Viftor* the *Dux* of *Aegypt*, importing an Order to fual the Paquetts of fuch Embaffadors as fhould come from them, that they might be brought fafe to his preference, and opportunity of adding or inferring any thing into their Letters or Infructions of the *Reguli* which they brought, might be prevented. By thefe Nations or *Gentiles*, as the Law calls them, muft be meant the *Azumites*, *Homertis*, *Sarcens*, and other People inhabiting near that Countrey, which were under the Government of *Reguli* in thofe days, as is evident from feveral Teftimonies; it being now the Cufdom to call all Nations, that were not fubjeft to the Empire, by the Name of *Gentiles*. As foon as they fet foot upon *Roman* Ground, or arrived in *Aegypt*, their Paquetts were to be fealed up, to prevent their falſifying their Letters they brought, which they might be inducd to do at this time. fying the Empire

A.D.
3 6 4

L.6. de Bonis
Proscriptorum
&c.Cod.Tb.l.9
tit.42.
Dat. 7 Cal.D
cemb. Medio
Abest à Cod.
Just.

L.L. 1, 2, 3.
quid publice
latitiae nunt
C.Cod.Tb.li
8.tit.11.

Cum Legati
Gentilium
uerint obsequi
eorum tabul
oportet, &c.
L. 5. de Lega
& Decretis,
&c. Cod. Tb.
12. tit. 12. A
est à Cod. 72

Sect. 2.

embroiled in Wars, which at setting forth neither they nor their Superiors had expected; or animated by some Malecontents, who out of hatred to those that at present reigned, might be desirous to embroil them in further Troubles. But besides the truth of the Letters, he expresses his Design to be, that the number of them might be preserved, possibly to see if any were directed to private hands, to such as held correspondence with those Nations, that thereby their Intrigues and Plots might be discovered: A thing often practised by other Princes. So *Acadius* afterward, when the Barbarous Nations raged in the Empire, commanded all Carriers or Conveyers of Letters to be topt, and their Pacquets sealed up and brought to his Presence. And the Custom is in *France*, that when the Popes Legates arrive there, their Faculties (as they call them) or Mandates, are to be carried to the Parliament. Concerning these Foreign Embassadors we shall only further suggest, that they had granted them by the Laws the use of the *Cursus publicus*.

17. *Valens* passed most of his Consulship at *Constantinople*, and *Valentinian* made his abode at *Milan*, till the Month of *September* of the same year. During this their first Consulship *Symmachus* was the *Præfekt* of *Rome*, to whom were directed this year thirteen Constitutions, whereby *Valentinian* provided for the Maintenance and further Convenience of that City. *Severus* of that City was *Vicar*, and *Mamertinus* was *Præfektus* Prætorio over *Italy*, *Ilyricum*, and *Africk*; *Salustius* of the East, and *Germanianus* of *Gall*. *Florentinus* was *Vicar* of *Italy*, and *Clearchus* of *Asia*. *Valentinian* amongst other matters provided for, by several Constitutions, in the beginning of the Year, which tended to the security and emolument of the Subject, thought fit also to take care of the publick Revenue, without which neither he nor his People could be preserved in safety: And this he did by revoking all Privileges and Immunities granted to any persons, those to Soldiers as usually excepted. But about a Month after his Brother *Valens* from *Constantinople*, by another Constitution provided, That without his knowledge no extraordinary Charge should be imposed by any Officer, nor the *Præfekt* upon the Provincials of his District; according to the Testimony of *Ammianus* concerning him, that the East never had a Prince which more hated Oppressions, he taking care for its safety and conveniences no otherwise than of his own House; and being a most grievous Prosecutor as well of Oppressors as Thieves and Robbers. And as he by an Edict at this time provided against the former sort, so *Valentinian* by two others published through *Italy* and the *Alpes*, which now stood in great need of Relief against High-way Men, took care for suppression of the other. For as from other Laws lately spoken to it appears, what Disorders of this nature were committed in several Provinces of *Italy*, to which for this reason he thought fit to forbid the use of Horses; so from those of which now we write, it is evident that the *Alpes* swarmed with such as had forsaken their Colours, and betaken themselves to those Mountainous and inaccessible places; the *Italians*, who for several Ages had alienated their Minds from Warfare, nor well enduring the Service. For prevention of which Mischiefs he now condemns to the Mines such as should harbour any that had deserted their Colours, of mean Condition; if of higher Degree, he deprives them of half of their Estates: and in this Punishment involves the Officers of all Governours of Provinces, who should relieve such in their Company, and not discover them. By the Direction of these Edicts it appears, that the *Alpes* were separate, and not esteemed in those days as part of *Italy*; for though some of them were reckoned to belong to it, others appertained as *Appendices* unto *Gall*: and indeed the *Alpes Cottie* alone belonged to *Italy*, but the *Maritime Alpes*, as *Penine* and *Graie* unto *Gall*.

18. About the same time that *Valentinian* shewed so much indignation against such as fled from their Colours, *Valens* was as much concerned about such as refused to come first to them. Being now making Preparations against the *Persian*, or rather in fear of the *Goths* their Incurfions into the parts near *Constantinople*; by an Edict directed to *Petronius Patritius*, his Father in Law, of whom we shall hear more shortly, he declares to all Veterane or Emerite Soldiers, that they ought to present such of their Sons as were able and fit for Service to be lifted. And further ordains, That if any of them had, to conceal themselves and shun the Service, got to be Officers or Attendants to the Governours of Provinces, they shall be forced thence, and obliged to the Burthens of Corporations, though old and weak as they are. For the better Encouragement of all, both that were actually in Service, and to be lifted, *Valentinian* shortly after took care for the more certain furnishing of them with Cloths, which in this Age were provided for Soldiers at the Publick Charge. He will have the *Sufceptores*, or such as got them together, to be made

either

A.D.
364A.D.
365.Valentinian
and Valens
A.D.Vide supra
lib. 25. Tit. 25.L. 3 de Immu-
nitatib. concell.
cod. 26.L. 11. de Ex-
traordinariis
judic. Tit. 11.L. 1. de Dispo-
sitionib. &c.
cod. Tit. 1.Imp. Valenti-
nianus & Va-
lens. Edict. duo
per Italiam &
Alp. Vide
Gothofr. in L.L. 7. de filiis
militar. appo-
sit. & Vetera-
norum. Cod. 7.

Sect. 3.

Both of them
take care to
about the Clo-
thing of Sol-
diers.

either out of the *Principals* of Cities, or else out of these *Honorati* who had obtained this Degree, not for their former services, but by Patents, or Codicils. For prevention of Frauds, to which long Employment gives opportunity, he will have this of theirs to be but Annual; and in *Africk*, if any fault should be committed in the choice, the blame should lie upon the Officer or Attendants of the *Proconful* of that Province, who had the Election in his Hands. By this we find that at this time the Soldier was served with clothes in kind, though afterward he usually received money in lieu thereof. And for the time which they should be furnished with and brought in, *Valens* provided at the latter end of this same year, by another Constitution; requiring that it should be from the first of *September*, to the first of *April*, which if the Governours of the Provinces should neglect to see performed, (for to their care it belonged) they and their Officers were to be punished at the discretion of the *Præfektus Prætorio*, under whose disposition they were. But this Constitution was made some time after, when *Valens* lay at *Marcianopolis* against the *Goths*, whom while he watched, that no mischief might befall the Provinces from their Inroads, a dangerous flame brake out within the Borders of the Empire.

19. We have formerly made mention of one *Procopius* a Kinsman of *Constantinus*, and *Julian*, to whom the latter was reported, when he invaded *Persia*, to have left order, that if he heard of his death, he should instantly assume the Purple. He was born and educated in *Cilicia*, a man clofe, and of few words; but being of good Morals, he was preferred, and long continued a *Notary* and *Tribune*. After the death of *Constantinus*, he began to look higher, was preferred to the dignity of *Comes*, and now appeared to some, who more narrowly observed him, a Person, that if opportunity should serve, would be ready to disturb the publick Peace. *Julian* when about to invade *Persia*, left him in joint Power with *Sebastian*, in *Mesopotamia*, with a strong party of men; and as was said, the report went, that if he himself miscarried, he bade him declare himself Emperor; but hearing of the promotion of *Jovian*, and how one of the same Name, and chief of the *Notaries* having been propounded by some few Soldiers as worthy of the Empire, was put to death, he had not now the courage to make any stir, but withdrew himself into places far remote. Understanding there that he was diligently fought after by *Jovian*, and weary of that retired and desolate condition, joined with Penury and Obscurity, he stole secretly into the Country about *Chalcodon*, where concealing himself in the house of a Friend, one *Strategius* a *Palatine*, he often came to *Constantinople*, and being unknown by reason of the meanness of his Habit, and his meagre countenance, diligently hunted after News. He had the contentment to hear *Valens* rail'd on, for oppressions, and invading the Rights of other men; but especially for his conniving at his Father in Law, *Petronius*, a man deformed both in Body and mind, who had been sordidly preferred from the Command of the Soldiers called *Martenses*, to the Dignity of a Patritian, and with all sorts of exquisite Torments rag'd both against innocent, and guilty Persons to find out debts owing to the publick of no smaller standing, than since the time of *Aurelianus*. So cruel, inexorable and raging an Inquisitor had never been known, with whom *Cleander* under *Commodus*, and *Plautianus* the *Præfekt* under *Severus*, were not to be compared. Many Families he ruined as well of Military men, as others, who sorely displeased with the present posture of Affairs, desired an Alteration about all things. This fully gratified the Humour of *Procopius*, who waited an opportunity, how by this means to prefer himself to the highest Dignity.

20. Winter being over, *Valens* hastened for *Syria*, to make head against the *Persian* King, who was tampering to get *Armenia* into his Hands, and being come into *Bithynia*, received Intelligence how a certain Nation of the *Goths*, as yet untouched, had designed to invade *Thrace*. However he resolved to keep on his Journey, but ordered a strong party both of Horse and Foot, to defend the places where the Incurfions of the Barbarians, was most feared; and upon this occasion, as is most probably conjectured, he directed his Edict concerning the bringing of the Sons of the *Veterani* into the Field, to *Petronius* his Father in Law, who seems in his absence to have been left in *Thrace*, and the parts near *Constantinople*. The Emperor being thus removed to a great distance, *Procopius* tired out with his private necessities; and resolving that a death how grievous soever, was to be preferred before so miserable a life, call'd the Die of his Fortunes very rashly, and entered upon a most bold and adventurous Enterprize: Having acquaintance with some of those Soldiers that were to march for *Thrace*, by great promises he laboured to

Gg 2

draw

A.D.
365.L. 1. de Militari
bus. Cod. 7.

L. 2. ad tit.

Anni 365
lib. 25.

Hee aliter Zo-
simus suo more,
nuncupat Juliane
mortuus Procon-
sulatum ad Jo-
vianum transfu-
it eique Obia-
tydam parpa-
tyam tradidisse
at rogasse ut
militis a sacra-
mentis solutus
Romanis revocari
fuerat. Quo
impetrato Cæle-
stius si Constanti-
nus fuisse dicitur
a Valentiniano
& Valente con-
promissum est
jussu fide militi-
bus missis fra-
strum in Exaci-
um portum
aufugisse.

Zosimus lib. 4.

Valentinian
revokes again
paying of
Money.

Valens forbids
the raising of
any without
his know-
ledge.

An Edict of
Valentinian
against High-
way men.

Valens sum-
mons the Sons
of Veterans
into the Field.

Sect. 3.

Courts some
Soldiers.

draw them over to his Design, and with them that whole Army. Distracted with various thoughts of Hope and Fear, he met them at a place about *Constantinople*, called the *Baths of Anastasia*, from a sister of *Constantine*, where by those mercenary Souldiers, he was received with promise of safety, and a show of Honour, though indeed, but in the nature of a Prisoner, or in such manner as the *Pretorian* Bands, having set the Empire to Sale, received *Julian* after the death of *Pertinax*. There stood he amongst them like a Ghost, or one newly risen out of the Grave, without the Habit of a Souldier, but clothed like a Courier, with a Coat imbroided, and from the groin downwards, being after the fashion of a Page, yet with a Pike in his right Hand, and a Purple Coat thrown upon his left Arm; he appeared indeed like some Player upon the Stage. In this ridiculous manner having fawningly implored their assistance, and promised them great matters, he was carried by the Souldiers who accompanied him, and shewed publicly in the City; though in their passage through the Streets, in great fear they were to be knocked on the head with stones, or tyles cast down upon them from the houses.

Upon the Em-
perours Ab-
sence Ulfurp.

21. Yet the people made no opposition, nor yet shewed him any countenance, though desirous of change; especially by reason of *Petronius*. Having ascended the Tribunal, a strange amazement seized on all men, which was accompanied with what is usual, a deep silence: Hereat he was strangely dismayed, and imagining that now the means for bringing him to a speedy end, for which he had often with-
ed, rather than the continuance in his former condition, was at hand, he was seized with a trembling in all his limbs, and therewith struck dumb for a long time. At length he so far recovered his spirits as to speak something with an interrupted and faint voice, concerning his Descent from the Imperial Family of *Constantine*, and this was followed by the applause of a few persons hired before hand, and then by the Acclamations of the ordinary fort in a tumultuous manner, giving him the Title of Emperor. Thus cheered, in an huddling manner, they hastened with him to the Palace, accompanied with none but those of base condition. Afterward many came to him, either persuaded, or on their own accords, and others, not hearing this strange and sordid alteration, slipped away and hastened to the Emperor, amongst whom he that used most speed was *Sophronius*, at present a *Notary*, but afterwards *Prefect of Constantinople*; who overtook *Valens*, at *Cesarea in Cappadocia*, as he was ready to march through *Cilicia*, for *Antioch*. The knowledge of matters how they stood at *Constantinople* diverted the thoughts of *Valens*, and he resolved to return by the way of *Galatia*, and by a speedy retreat to crush the Rebellion as it were in the egg. While he hastened back by great journeys, *Procopius* procured some Persons impudently to affirm, that they came out of *Gall*, and that *Valentinian* was dead in that Province, where all men would willingly submit to the new Prince. And that so audacious a design, might not want answerable prosecution, *Nebriidius*, who through the Faction of *Petronius*, had been made *Prefect of Pretoria*, in the room of *Sallust*; and *Cesarina* the *Prefect of Constantinople*, were both cast into Prison. The Government of the City was committed to *Phrononius*, and *Euphrasius* was made *Magister Officiorum*, two Learned *Galls*; and matters belonging to the Camp, were intrusted with *Gomarius* and *Agilo*, recalled to the Military Girdle, indifferently as the Event shewed. And, because *Juliana Comes* who Commanded the Forces now in *Thrace*, was feared, lest he should come suddenly upon the Rebels, *Nebriidius* was forced to write to him in *Valens* his name, to hasten to *Constantinople*, where he was also feared. All things thus seeming to favour them, *Araxius* was by procurement of *Agilo* his Son in Law, made *Prefect of Pretoria*; and on many others, Offices and Employments at Court were conferred. For so did Ambition and Covetousness sway, that though this to wife men could appear little more than Pageantry, and some were constrained to accept of these fine things, yet others made friends and that by money, to come at them.

And his Af-
airs seem to
be in a good
issue.

22. *Procopius* his Estate now seemed reasonably well settled, and for the preserving of it in this posture, a sufficient Army was to be raised, which was easily enough done, those Troops which were to march for *Thrace*, being by great promises allured to swear Allegiance to him, and that with bitter Execrations; who had also the advantage of shewing them the little Daughter of *Constantine*, which he carried in his lap, and thereby his name in Blood both to him, and *Julian*. And it made a greater Impression that *Faustina* the Childs Mother had that day upon some other occasion put on the Habit of Empress. Now were certain Persons sent to draw *Illyricum* to his party, but armed, besides blindness and madness, with no other materials, than Medals stamped with this new Emperours Image, and simple

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365.

Sect. 3.

Valens lays
Siege to Nicomedia.In danger of
being Surprised.

simple allurements, whom *Equitius* that Commanded in those parts seized, and put to death with much torture; but fearing he might himself be so treated, he Fortified the Passages toward the North, viz. that of *Dacia Ripensis*, the most famous one of *Succi*, and the other in *Macedonia*, known in Greek by the Name of *Acontisina*. By this means was the Ulfurper hindered of his Design upon *Illyricum*, and thereby missed of a notable Advantage; while in the mean time *Valens* travelling through *Galatia*, upon notice how far matters were gone at *Constantinople*; was struck with such consternation, that he thought of calling off the Purple, and had certainly done it, if those about him had not plied him with powerful motives to the contrary; by the advice of whom, he sent before the *Jovian* and *Victors* to break into the Camp of the Rebels. While they were on their way, *Procopius*, lately returned from *Nice*, in five days space having gathered together those called the *Diviteses*, and a promiscuous number of such as had forsaken their Standards, went as far as *Mygdus*, a Town of *Phrygia*, situate on the River *Sangarius*. There the Legions met, and being ready to join, when now the Arrows flew very thick, he boldly stepped forth alone, as to provoke some enemy to fight, but spying one *Vitalianus*, whom its uncertain whether or no he knew, he gently saluted him in Latin, kissed his hand, and gave it him; and when all wondered what he was about, he mildly upbraided him and his fellow Souldiers, for taking the part of a miserable *Pannonian*, who robbed and spoiled all men, and so far he infuriated himself, that though they were come thither animated with Anger and Resolution to fight, they were by his speech and behaviour mollified, nay, quite changed, and vailing their Ensigns to him, which was the usual sign of Defection, passed over to his Party. Instead of the warlike shout to Battle, which the Barbarians termed *Barritus*, they saluted him Emperour with loud voices, and lucky acclamations, and with universal Consent accompanied him to his Pavilion, affirming, after the manner of Soldiers in such cases, that *Procopius* was invincible.

23. This Accession so seasonably made to the strength of *Procopius*, one *Rumitalca* a Tribune, who, after his coming over; had received the charge of the Palace, upon mature advice, hastened with some Souldiers by Sea, to that City of old called *Draparnum*, at this time *Helenopolis*, and thence with all speed, went and seized upon *Nice*. To besiege it *Valens* had sent *Vadomarius*, who had exercised the Command of *Dux*, and was one of the *Allemans* Kings, while he himself went on to *Nicomedia*. Thence he passed, and with all his might laid siege to *Chalcedon*, from the Walls whereof, many railing speeches were cast against him, and amongst the rest they called him *Sabaiarius* or Beer-drinker, *Sabaia* being a sort of small Drink made in *Illyricum*, of Barley or Wheat, as at present our Beer or Ale, and in *Pannonia*, where in the Town *Gabalus* *Valens* was born. Being tired out by scarcity of Provisions, and the pertinacious resolution of the Defendants, he resolved to discontinue and begone, when those that lay in *Nice*, sordainly making a Sally bore down all before them, and under Conduct of their stout Captain *Rumitalca*, designed to surprize *Valens*, which had been effected, but that he had notice of their coming in the very nick of time, and slipped away by the Lake of *Samona*, and the every way winding River *Galkus*. By this means *Bithynia* came into the hands of *Procopius*, and *Valens* returning with all the speed he could make, to *Ancyra*, there was revived by the welcome news of the coming of *Lupicinus* with considerable Forces out of the East; wherewith now entertaining new hopes, he sent *Arminius* an excellent Commander, against the Rebels. He being come as far as *Adastiana*, where *Jovian* died, found theretostop him one *Hyperechius*, formerly an Apparitor of the Palace, with whom as a despicable fellow, disdain to fight, he sent to his men to lay hold on their Leader and bind him, which they presently did. In the mean time one *Venusius* an Apparitor belonging to the *Comes Largitionum*, under *Valens*, having been formerly sent to *Nicomedia*, to fetch gold to pay the Souldiers that served in the East, upon what had lately happened, betook himself speedily to *Eyzicus* with what he had collected. There he met with *Serenianus* the *Comes Domesticonum*, who being sent to see to the Treasure there, defended the City with a tumultuous sort of men; and this City, that to *Bithynia* he might join the *Hellepont*, *Procopius* had resolved to attack.

Mira de Aris.
thos tradit
Basilian M. in
Epist. c. 186. i
qui illar vi-
duum de morte
vtriusque inter-
vult Valens in
locum.

24. The accomplishment of his Design was deferred, by reason that the Defendants had chained up the Haven, and thereby barred all beaked Ships of access, and besides highly plied their business from the Walls. After that the Industry of all the Captains in Council, and of the Souldiers in fight, was rendered useless, one *Aliso* a Tribune, a cunning Warrior, found means to cut the Chain, which done, the place was easily taken, and *Procopius* coming thither, pardoned all he found therein,

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therein, except *Serenianus*, whom he sent Prisoner to *Nice*, with order that he should be carefully lock'd to. Now did he bestow on *Hormisdas*, the Son of that *Hormisdas* of the Royal Bloud, who came out of *Persia* to *Constantinus*, the Dignity of *Proconsul*, with Power both in Civil matters, and those relating to War; as in old time was the Custom. He had demeaned himself with great Moderation and Humanity hitherto, and being fought for by a Party which *Valens* had sent through By-ways into *Phrygia* to entrap him, he escaped through his singular diligence, and rescued his Wife that followed him, when near being taken; a Lady rich and noble, by whose Modesty and Resolution he afterward escaped imminent dangers. But *Procopius* now puffed up with his success, and not considering the Vicissitude of Human Affairs, commanded the House of *Arbeto* to be rifled, (which as belonging to his Friend he had formerly spared) out of indignation, that being several times sent for he had deferred his coming, pretending the Inconveniences of Sickness and Old Age. He could not but apprehend, that from this act great Inconveniences would arise, yet imagining that at his pleasure he could pass into the Eastern Provinces, he neglected his Affairs, and grew remiss. Only he attempted to draw the Cities of *Asia* to his Party, and gave greatest heed to such as could best advise him how to scrape up Money, for the better sustaining of that great Shock which must necessarily come upon him. These things thus fell out toward the middle of Winter, in the same year that the two Emperours bore the first time the Title of *Consuls*.

A.D.
366.Gratian
N.B.P. &
Dagalaiph
pho Cofi.Gratian and
Dagalaiph
Consuls.Valens draws
off Arbeto
whom Pro-
copius had dis-
obliged, and
thereby doth
his business.For by the
persuasion of
Arbeto the
Army revolts
from Pro-
copius.Who is deliv-
er'd up and
put on death,
though the with-
Deliver-

25. The following year, which was known by the Consulship of *Gratian* the Son of *Valentinian* and of *Dagalaiphus*, when Spring was well advanced, *Valens* having joyned *Lupicinus*, with a strong Army marched to *Pessinus*, a Town formerly belonging to *Phrygia*, but now to *Galatia*, which having reinforced fo as to withstand the Impression of any sudden Accident, by the foot of the high Mountain *Olympus* he proceeded into *Lycia*, with purpose to fall upon *Goamarinus*, who was supine and careless in the Management of his business. But it much incommoded his Affairs, that the little Daughter of *Constantius* with *Faustina* her Mother, was by *Procopius* his order carried up and down, and shewed to the Soldiers, whom he enraged by the sight, and provoked to fight for that tender Branch of that Imperial Stock, to which he himself was related. As the *Macedonians* (it's said) being to fight with the *Illyrians*, placed their Infant King in his Cradle, even in the Field before their faces. Therefore to obviate this mischief he studied all manner of ways, and drew off from *Procopius* his lately disobliged Friend *Arbeto*, that by the interest and favour of one of *Constantinus* his Captains, the Minds of the Soldiers might be mollified. Neither did he fail of Success; for *Arbeto* being revered for his high place and venerable Age, quite turned their Hearts. He told them *Procopius* was no better than an High-way man; called them his Sons, and Partakers in his former Labours, though now misled by the Tricks of this desperate and obscure Fellow, whom he advised them to quit, as one who must at length necessarily be ruined and forsaken by all men. And this had such Influence upon *Goamarinus*, that though he might easily have escaped, he went over to the Emperour, who quickned by this success halted into *Phrygia*, and there near to *Nacolia* presented Battle to the Rebels. Now did *Arbeto*, moved by the danger wherein he stood, revolt also from *Procopius*, and most of his Men (for he was General) followed his example, carrying their Targets under their Arms, or upon their Heads, and their Banners or Standards not erect, but in a negligent posture, which was the manifest sign of Defection. *Procopius* amazed at so unexpected an accident, quitted his Horie, and betook himself into the adjoining Woods, and was followed by *Florentinus* and *Barchabas* a Tribune, whom Necessity and no good will had drawn to side with him. Having wandered the greatest part of the night, when the Moon shone so bright that they feared they should be discovered, they bound *Procopius*, and presented him to the Emperour, who both commanded his Head to be struck off, and them two also to be put to death, without any right consideration in the Judgment of *Ammianus*. For, had they betrayed a lawful Prince, Justice itself would have pronounced them duly punished; but if a Rebel and Disturber of the publick Peace, for to signal a Service they rather ought to have been highly rewarded. But such was the end of *Procopius* and his Usurpation, at the Age of forty years and ten months; a man not uncomely of Body, nor of mean stature, but who went always stooping, and look'd ever upon the Ground, by reason of his Melancholick Disposition: Not unlike that *Craesus*, whom *Lucilius* and *Tully* reported, but once in his whole life to have laughed. Yet was he not cruel, but abstained from Bloud; a thing to be wondered at in the Historians Opinion; whereas indeed it is not known what he might have pro-

Sect. 2.

Marcellus his
Kinman be-
sides Chalcidus,
and puts on
the Purple.It taken and
ravoured to
death.Valens very
severe in pun-
ishing this
Rebellion.Such Earth-
quakes as ne-
ver were
heard of in
any Age.

25. So went matters in *Phrygia Salutaris*, the Report whereof coming to *Marcellus* the Protector, the Kinman of *Procopius*, and Governour of *Nice*, he there in the dead time of the night caused *Serenianus*, who was kept close prisoner in the Palace, to be slain: Which happened luckily for several persons; for being a morose cruel man, and much favoured by *Valens*, both as his Countryman, and for the suitability of his Disposition, had he overruled the Defeat of *Procopius* his Party, in all probability he would have procured the Destruction of many, as well innocent as other persons. This done, *Marcellus* seized speedily on *Chalcidus*, and with the Countenance of a few, whom Poverty and Desperation had driven, and now kept, in Rebellion, put on the Purple, being deceived in two particulars whereon he relied. He had heard, that a Power of *Goths* was coming to the aid of *Procopius*, and these he believed he might easily draw over to his own Assistance. And he was utterly a stranger to what passed in *Illyricum*, where *Equitius* perceiving that the whole shock of the War would be turned upon *Asia*, for that he heard nothing of what had happened near *Nacolia*, resolved if he could, to become Master of *Philippopolis*, as very commodious for Assistance of *Valens*; but a little after, when this presumptuous act of *Marcellus* was heard of, a Party of stout Soldiers was sent, who surprized and committed him like a Slave to Chains and Prison, whence he was brought out the next day and tortured to death, together with his Complices, having only one good thing performed, if we believe *Ammianus*, that he made away *Serenianus*, than whom (in his Opinion) *Phalaris* himself was not more cruel. However, there followed a severe Inquisition after Offenders, and a most horrible Slaughter, as well of innocent as guilty persons; *Valens* his Ears being open to all Complaints and Informations, though never so unjust or ill grounded, and made by those who having had some relation to the Court, were merely induced to this practice by a vehement Thirst after the Wealth of their Neighbours. Many were banished to Islands, and many were turned on begging, no Moderation being had, till the Emperour had glutted himself with Bloud, and both his Coiffers and those of his Followers were filled by Confiscations and Rapines.

26. So were the Remains of this Civil Tempest dissipated in the Eastern parts of the Empire; and all those Concusions ceased, which were accompanied if not dignified by strange preternatural Motions of both Land and Sea. For while *Procopius* his Rebellion was yet but little advanced, on the one and twentieth of *July*, in the Consulship of the two Emperours, there happened such horrible Earthquakes throughout the World, as neither true Historians have related, nor ever Fables themselves represented to us. A little after the day dawned, there was a great Tempest of Thunder and Lightning, which was followed by so dreadful a Trembling of the Earth, that the Sea also, shaken therewith, deserted the Shore and its ancient bounds for a great space, and the depths of its Chariet were discovered; multitudes of Fish were seen to stick in the Mud, and the unequalness of its bottom appeared, here Hills and there Valleys, which never had before seen the Sun, since at the original of all things they were first overwhelmed with the Floods. Many Ships were left on the dry ground, and swarms of people flew thither to catch Fish; when suddenly the Sea, as disclaiming to be imprisoned, returned to its former place with such fury, that not containing it self therein, but transported beyond its bounds, by the violence of its Rage and Motion; it overturned Houses and other Buildings innumerable, drowned many thousands of Men, and overwhelmed numbers of Ships; great Vessels were by the violence of these Guts blown upon the tops of Houses, as it happened at *Alexandria*; and some near two miles from the Shore, as *Ammianus* (who relates these things) saw one himself near *Methone* a Town of *Laconia*. This Prodigious we cannot take to have signified any thing relating to *Procopius* his Rebellion, so much as that dreadful Inundation made into the *Roman* Empire by the Northern Nations; which shortly after happened, and the Ruine of the Western Provinces, which followed thereupon.

27. In such estate we must leave matters in the Eastern Parts, while we inquire how *Valentinian* managed his Affairs in the West. He had forbidden the use of Horfes in the Provinces about *Rome*, as was lately said, for prevention of Robberies so much practised in these Countreys; but the Prohibition being so general, that Publick Business was thereby much obstructed, as he had dispensed before with *Sensors*, the *Honorati*, *Governours* of Provinces, and the *Vetane* Soldiers as to this matter, as also with those called *Suarii*; so now with the *Palatine* Officers, through the Province of *Picenum*, by an Edict directed to one *Valentine* the *Consularis* of this Province, which is to be understood of that called *Picenum Ausonianum*, and not of the *Suburricarian Picenum*, which at this time

L.L.2.3.4.
Quibus tyro-
rum glia con-
cessa est, etc.
Cael. 16.9. tit.
30.

had

Sect. 3.

had not its peculiar Governours; all the *Suburbicarian* Provinces having now one *Consularis* let over them. At this time great Complaints there were in *Africk*, concerning the Inequality of Taxes laid upon Lands. It was the Custom that the Emperours sent into the Provinces certain Officers called *Inspector*, to view and consider what barren grounds there were, what were fit to be exempted from Payment; and accordingly the Owners of them were wont to be relieved. But hereupon an Inconveniency was discovered to arise to the Publick Revenue, for several rich men that possessed other fertile grounds, were observed to take the advantage and get off; which *Valentinian* judging not at all requisite from any Rule of Charity, forbade it should be practised for the future, commanding that such as possessed both good and bad, should pay for them all together, the fertile making Compensation for the barren. And whereas there were further heavy Complaints in this Province of *Africk*, that the Subject was burthened by an unequal charge of Carriages, for the conveyance of the Provisions belonging to the Army, (in which sort those of *Britain*, were in former time much harried, as appears by *Tacitus*, and other Provincials in other places much aggrieved) which Disorder proceeded from the Knavery of the *Tabularii*, or the Officers that managed the Conveyance; this Emperour by another Edict Commands, that by Tortures they be deterred from all such Practices for the time to come, and that the burthen of Conveyance be imposed on such as lay nearest to the *Manifactory* or limits where the Army lay, and not on those at great distances. The occasion of this Law seems to have proceeded from what *Ammianus* Writes of the *Assyrian*, and other *Moorish* Nations, their more than ordinary infesting the Limit of *Africk* in these days.

He brings up
the Defendants
of the Cities
or People.

28. These were Instances of *Valentinian* his care for the Ease of the Provinces, as to these particular Cases; but he provided for their Emolument in a more general way. For about this time it was, that those Officers were created by him, whom they called *Defensores Civitatum*, now being made the first mention of them in the Laws. They were Persons Chosen by the general Consent of Cities, and Townsmen of approved wisdom and fidelity, out of the *Municipes*, *Plebeians*, or those they called *Honorary*, and their work was to defend the Places, as their Name imported; in which respect, they were further termed, *Locorum Defensores*, *Defensores Discipline*, *Parentes Plebis*, and *Defensores Plebis*, resembling in some measure the old *Tribuni Plebis* of the City of *Rome*. "The poor they preserved and rescued from the Violence of the rich Merchants, from the Insolence of the Governours of Provinces, as also from Inferiour Officers belonging to the Ports and Customes; of all other Persons that were to Pay Taxes, from the capacity of Collectors; and in Conclusion, from the Insolence of Thieves, Murderers, Adulterers, and other Criminals. To this end, that People had recourse to them, and they had power to make full Inquisition into such Offences. Yet could they neither punish by Fine, or Imprisonment, but sent away the Offenders with their Examinations, and their Cases stated, to the Ordinary Judges, or to the Prince himself. To their care also it appertained that the *Curia* of Corporations, or other Bodies in Companies, should be constantly supplied; that none should make use of the *Curia Publicus*, without Licence duly obtained. Inventories of the Estates of Pupils, or those under Age, were made before them, and Actions might be entered, for they had power of searching Records, if the Governour of the Province was absent. But by an Edict now directed to one *Seneca*, by this Title of *Defensor*, he is forbidden to intermeddle in any Causes, exceeding the sum of fifty *Solidi*. They continued in their Office for the space of five years, and *Majorianus* Ordained, that for their Confirmation therein, the Emperours Consent should be necessary.

29. But this is chiefly remarkable, as to those Officers, thus newly made, that *Valentinian* gives it in special Charge to this *Seneca*, lately mentioned, that he should take notice of, and carefully obey that Law, whereby was Commanded, that those that bore any publick Office, should buy nothing in the place subject to their Jurisdiction, during the time of their Power. For such indeed was the Law of the Empire, that they should not only not buy, but neither receive or accept by way of gift, any thing during their Administrations; lest they should make use of their Power, to wrong or oppress any of those that were subject to their Authority. And by reason of frequent miscarriages in this kind, doubtless this severity was first introduced, which sometime extended so far, that it reached to places even beyond the Jurisdiction of those Employed, whither the awe of their Power might reach, though the proper effects thereof could not; but this as extravagant was afterward Contracted, and the Prohibition as to

Place,

A.D.
366.L. l. c. 11. de
Ammianus Tri-
butis. Cod. The-
l. 11. Tit. 10.L. l. de Defen-
sionibus
Cod. Justin.
l. 1. Tit. 55.
C. de Tit. l. 11.
C. de Tit. l. 1.
L. 1. de Parati-
tis. de Defen-
sionibus Civita-
tum. Cod. The-
l. 1. Tit. 11.In illis legi
solicite tunc
paratis que
prius con-
stitutione ut
publicum Ma-
gis agister
nihil in se-
re mercator
Officio. Dat. v.
Kal. Jul.
l. 1. de Parati-
tis de illa que
admissionem
habet. Cod. The-
l. 1. Tit. 8.
Tit. 15.

Sect. 3.

Contracts about
things committed
by the Governours
of Provinces.

And variously
provides for the
Convenience of Rome.

Place, was confined within the District of the Magistrate; who within those his own Bounds, could not make any Bargains or Purchase; though he was Native of a place remote, and whether he did it publicly, or privately. He might only purchase what had belonged to his Father, left his Family should be wronged; but in any other Circumstances if he was found trucking, all his Contracts were absolutely Null, and the thing so bought or given, returned to the Seller, or Giver, from him that possessed it, whoever he was, if within five years, after the Magistrate returned to a private life, he challenged it: Otherwise it was Confiscate, and in both Cases the Purchaser lost his money, or the Price, in whatsoever it consisted. "This by another Constitution of this same Year, *Valentinian* in forces, and will have none of what Dignity soever excepted, whether they were *Illustrious*, of the Rank of *Speiabilis*, or *Clarissimi*: and he enumerates thirteen several sorts of Inferiour Officers, assistant or subservient to the Magistrates. By an other Constitution of this same year, he forbids all the Magistrates or Judges, to receive any Petitions or Letters concerning any Business, when they are retired at Home, but only in Court, and that they Commit none to Prison, till the Accuser of the Party had Entered into the Record, or Book, kept for this purpose, his Accusation relating to the nature and manner of the Crime Committed.

30. By various other Laws he still provided for the conveniences of the City of *Rome*, both in relation to its Buildings, and supplying of it with Provisions, which he would have imported in kind, and no money taken in lieu of them, as had been practised by the Officers, who had the care of them, to fee them brought in and laid up. That there might be nothing omitted, which would conduce to plenty; for the regulating of Bakers, and settling their Concerns, he provided in several Edicts; and not only took order in their matters, but went as far as to Ordain what was requisite for the carriage of Corn, or other Necessaries, from one place to another, wherein yet he still served another Publick End. There were a sort of men called *Catabolenses*, we may term them *Loaders* or *Carriers*, whose employment it was to load the Corn Landed at the Haven, upon Carriage-Beasts, and so to convey it to the Publick Granaries, or thence to the Bake-Houses, as there was occasion. "For supply of their Number, he Ordains, that *Libertini* (or such as had been slaves, but had obtained their Freedom) should be forced to this Employment, in case they were worth thirty pounds of silver, or had received Estates from their Masters, either by their Testments, or by way of gift in their life time; provided it was nothing belonging to the Body or Company of the Bakers; for then they should be forced to the Services, and burthens of that sort of men, who being also no better than Publick Servants, this very year, he utterly forbade any one of them ever to be freed from that Service, or permitted to pass from one Bake-House to another. But it must be known, that in this Age whereof we Write, it was found that Princes bore some spleen to the *Libertini*, or those that had been Slaves, as we may have further occasion to discover, chiefly because they abounded with Wealth, through the bounty of their Masters, who were inclined to an extraordinary kindness, nay, profuseness to them. To put some stop to this humour, *Valentinian* subjected them to this almost another kind of Slavery; although if they had received any Lands from their Lords, that were *Senators*, they should notwithstanding be Subject to the usual Payments relating to *Senatorial* Lands. This Edict bears date on the seventh of July, and is said to have been read in *November* following, in the *Pantheon* at *Rome*. The *Pantheon* was that Famous Temple built by *Agrippa*, which being burnt, was soon after repaired, and dedicated to all the Gods; but afterwards, by permission of *Phocas*, and procurement of *Boniface* the Fourth, Bishop of *Rome*, was turned into the Church of our Lady, and all Saints. This Law seems to have been published in it; not only because of the consequence of *Pagani* to it in those days, of which pervasion most of those Publick Bakers, and *Catabolenses* might be, but for that it was near to their Work-Houses, and Stables, being in the Ninth Region of the City.

31. Having discovered great Frauds to be often committed by those that managed the Publick Revenue; and chiefly how they were wont to let out the money to Interest; or make other Bargains, to their own advantage, and his loss; and chiefly in the Diocess of *Africk*; by an Edict, directed to *Dracontius* the *Vicar* thereof, (which was received at *Adrumetum*, the usual place where the *Vicar* resided, on the seventeenth of *November*) he Condemns those that make such Contracts with these Officers, in a fine amounting to the four fold value of the sum. But as the Revenue was diminished by such Frauds, so was both it and the Estates of private Persons very much abated, by reason of the car-

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A.D.
366.L. de illa que
admissionem
Gothici L.L. 3. de Officio
Receptorum Pro-
vinciarum Cod. The-
l. 1. Tit. 7.
L. 4. de Officio
Receptorum Cod.
The- l. 1. Tit. 3.L. 1. Tit. 11. in
ipsis speciebus.Vide L. l. c. 9.
10. de Pisci-
bus et Catibo-
lensibus Cod.
The- l. 1. Tit. 7.
3. de Goth. in
nomine. dicit
seu Catabolen-
ses a nazare-
bathians quod
fuerunt eorum
hinc per se cau-
dallum a naz-
abathians pro
eodem dicitur
Doribus.Dat. Non. Jul.
Lectus in Pan-
theon Non.L. 10. de Jure
Fiscali Cod. The-
l. 1. Tit. 11.

Sect.2.

He permits
private per-
sons to search
for Oar upon
terms.

city of Coyn, and especially of the Golden, which caused him some years after to raise the value of it something higher than it had been in the Reign of *Constantine*. At present he considered how he might increase the Metal, which if it could be done, there would be no need that the other course should be taken; and this was by giving encouragement to such as had an inclination to fetch it out of the Bowels of the Earth. It was the Custom generally allowed, as at this day, That Mines of Silver and Gold appertained to the Sovereign Authority; and as to the Commonwealth or Empire of *Rome*, the Mines belonging to it were wont to be digged and wrought by such as were condemned to that Drudgery, who being maintained no otherwise than as Slaves at the publick charge, all the Profits accrued to the Treasury: Particularly at *Carthage*, in Mines of Silver were employed in old time no fewer than four thousand men, the effect of whose Labours was a daily Product of twenty five thousand Drachms. But such was the Condition of this Age in reference to Coin, that *Valentinian* it seems found himself obliged to an extraordinary course of permitting private persons to search for Oar, under certain Limitations and Conditions. Being now come to *Paris*, whither (as we said) he travelled out of *Italy*, by an Edict directed to *Crescentius* the *Comes Metallorum*, he took order herein, commanding him to require by way of Tribute or Imposition Eight Scruples from every such Undertaker, but this in Oar * or Powder of Gold, not in what was throughly melted and refined, whereof twelve Ounces || were to be esteemed of equal value to fourteen of the other. The rest they should take to themselves, yet so as the Treasury must have the Right of Preemption at a competent and indifferent rate. The *Comes Metallorum*, to whom this Law is directed, was a peculiar Officer under *Valentinian*. Of this *Comes* we have spoken heretofore from the *Notitia* of the Empire, which mentions such an Officer in *Ilyricum*, under the disposition of the *Comes Sacrarum Largitionum*; but in the West no such *Comes* is mentioned, for the *Comes Auris* his Office was of another nature, relating to the Payment of Gold in what sort soever made.

A.D.
366.L.3. de Metal-
lis & Metallu-
rii, c. 27. l. 1.
10. c. 19. D. de
4. l. 1. D. de
Pensis.
* Basilica di-
cta Jule Golt.
c. 1. l. 1. mod. tit.

Ammian. l. 27.

Julius de-
scribes the Al-
lems near
Alyr.

32. *Valentinian* being come to *Paris* about the beginning of *November*, and the later end of his Consulship which he bore with his Brother, continued there the last two Months of the Year, and some part also of the following, till he was called further Northward by the Motions of the Barbarians upon the Borders. For while *Procopius* was driving on his Design in the Eastern Parts, the *Allemani* having recruited themselves, and resumed their former Courage, which had been so greatly abated, *Ammianus* tells you, by the Courage and Conduct of *Fulian*, renewed their Incursions into *Gall*, and cut off two *Comites*, *Carietto* and *Severianus*, who opposed their Motions. This Defeat being understood, *Dagalaiphus* was sent from *Paris* to redeem the Credit of the *Roman* Arms; but he delayed his March, pretending that he alone was not of sufficient ability to grapple with so powerful an Enemy; and he being afterwards sent for back to receive the Consular Ornaments, with *Gratian*, *Fovinus* the *Magister Equitum* was fitly furnished and dispatched away in his room; who marching with great wariness and circumspection, near a place called *Scorponna*, twelve miles from *Metz*, came suddenly upon a great number of Barbarians, and cut them off before such time as they could arm themselves. Having destroyed this, he went to seek another Party, which with the same caution having also surpris'd at the side of a River, while they were drinking, combing, and washing themselves, he treated them in the same manner. There remained a third Body, which animated by his good fortune, he hoped to attack with the same success, but found them not in the same posture, but prepared fully for an Engagement in the *Catalunian* Plains. Here he was obliged to entrench himself, and in the morning drew out his Men in a larger compass than usual, that he might not encourage the Enemy by a view of the smallness of his Numbers in comparison of theirs; and though his Men were inferior in Numbers, yet in Resolution they far exceeded, all but *Balthobasdes*, a Tribune of the *Amatuna*, a great Braggadocio, but (as usually such are) of small performance; who (tho' the Fight continuing till the evening) ran away, and endangered the Defeat of the whole Army. Yet by the Generals care and endeavour the Souldiers were not so discouraged, but that pressing still upon the *Germans*, at last they had the better, and killed six thousand, with the loss but of two hundred men, and as many wounded. The Night having put an end to the Dispute, early in the morning *Fovinus* shewed himself in the Field; but the Barbarians, of whom four thousand were wounded, would have no further to do with him, but shifted away. At his return from the Pursuit he found that their King, who had been taken Prisoner with a few others, was hanged by a Party of the *Hastarii* or *Asarii*, whom he had sent to plunder the Camp. Being enraged at so base an act, so impudently committed without order from their Superiours, he resolved to an-

Sect.2.

Several Pre-
sents of Rome,
and their Al-
lions.

animadvert upon the Tribune, and had condemned him, but that the Fact was evidently found to have been done by the violence and rage of the Souldiers. Then marched he back to *Paris*, on his way whither the Emperor met him to do him Honour, and afterward designed him *Consul*; the Joy being increased by a fight of *Procopius* his Head, which *Valens* sent much about the same time to his Brother. This is the Account we have of the War against the *Allemani*, and the Battel fought by *Fovinus* against them, from *Ammianus*. *Zosimus* (according to his custom) tells us another sort of Story: That the Emperor himself met the Enemy, and giving them Battel, the *Romans* were beaten and put to flight. That the Legion of the *Batavians* being found guilty of so much Cowardise, he condemned to be daffined and sold for Slaves; but all the Army prostrate before him besought him, that he would not put so great a Disgrace upon them, and promised him for the time to come they should behave themselves like Men, and as became *Romans*: To which he yielded, requiring them only to make good their words by some evident act. Hereupon the *Batavi* resumed their Arms, and engaging a second time against the *Germans*, the Barbarians paid for their former success at a very dear rate, an infinite Multitude being slain, and very few returning home with the News. Thus he, without any mention of *Fovinus*.

A.D.
366.Ammian. l. 27.
c. 1. l. 1. mod. tit.

33. But to return to our more certain Guide: *Ammianus* tells us further, That after this Battel several other Skirmishes happened in *Gall*, which he thinks it not worth the while to relate. And though what he adds next after this, he judges not to be of that nature, yet we can hardly put more value upon it. About this time a kind of Prodigy there was seen in that part of *Tuscia* called *Tuscia Anagnina*, (for those Reasons formerly alledged) where in a Town called *Pistoria*, about nine of the Clock, in the view of many Spectators, an AS mounted the Tribunal or Judgment-seat, and there brayed very loud and long, to the Astonishment both of those who heard it, and heard of it. Great wonderment there was what it should signify; and at length the Riddle was unfolded, when one *Tarentine*, a mean Man born in *Rome*, and a Baker, (*Pistor* in Latine) as a Reward for having accused *Orphitus* (who had been *Præfectus*) of Oppression, was preferred to be *Corrector* of that Province; but bearing himself as ignorant persons are wont, very arrogantly, and being found guilty in some matters belonging to the Company of the *Novitiani*, he ended his Life (as was reported) by the hands of the Hangman, at such time as *Cladius* was *Præfectus* of *Rome*. But this happened some years after, for during the late Motions that City was governed by *Symmachus*, who had succeeded *Apronianus* in that Command, a Person eminent for Learning and Modesty, by whose procurement it abounded with all Conveniences more than ever it had wont: Which Testimony of the Historian is largely confirmed by the many Laws concerning this subject. He also built them a most beautiful Bridge, with which the Multitude was very much pleased for the present, but shortly after made him too sensible of its fickle and ingratitude; for upon a meer Rumour raised by an obscure Fellow, without any witness or ground, that he should say, He had rather cast his Wine upon the Lime-kilns, than sell it at the rate which they hoped for; they burnt a beautiful House that he had beyond *Tiber*. After him to *Lampadius*, who had been *Præfectus Prætorio*, was committed the Government of the City; a man of that humour, that he would take it heinously if he was not commended for his graceful Spitting; as if he did that also with greater wisdom than his Neighbours; but otherwise he was severe and well enough managed his matters. When he was *Prætor*, and made his Magnificent Shew according to the custom, though he was free above the ordinary rate; yet not able to bear up against the Pettulency of the Rabble, which still importuned him with its noise to bestow more upon unworthy persons, to manifest that he was Liberal, and yet a Despisier of the Multitude, he sent for some poor men out of the *Vatican*, and with great Gifts enriched them. But yet to thew his vain humour, one thing our Author saith will suffice, which though of small reckoning in it self, yet may be a Warning unto Governors: In all parts of the City, which had been adorned at the Expences of sundry Emperours, he caused to be engraven his own Name, not as a Repairer but a Founder: With which Dislike (though he might better do it) *Trajan* the Emperor also laboured. *Lampadius* too was much molested by the tumultuous Citizens, especially at one time when the Rabble had certainly fired his House adjoining to the Bath of *Constantine*, had they not been beaten off by Stones and other things, cast from the tops of Houses by his Servants and Friends; and he himself was forced to run as far as the Bridge *Mithvius*, before he could secure his Person. The cause of this Disorder was, for that in raising his new Buildings, and repairing the old, he made not provision for the Expence in the ordinary way

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out of the Tributes or Revenues; but as there was need of Iron, Lead, Brass, or any such Materials, he sent out his Apparitors, who took them away from the Owners without any price or recompence. His Successor was *Flaventius*, from *Quaestor* of the Palace, a *Pannonian* by birth, a Person of Prudence and Integrity, who made it his business to render his Government peaceable, as well as acceptable for plenty of all things. But he was also plagued by the Seditious Humour of the People, and that by reason of a Contention of two persons for the Bishoprick, which we shall abundantly hear of in its more proper place.

A.D.
366.

Valens invades
the Territories
of the
Goths to no
purpose.

34. While matters proceeded thus disorderly in *Gall* and *Italy*, *Thrace* enjoyed as little quiet. *Valens* thought he had just cause to make War against the *Goths*, for having afflicted *Procopius* in his Usurpation, and he had the consent of his Brother therein, according to whose pleasure and direction he ordered his Affairs. But first was sent to them *Vitor* the *Magister Equitum*, to know the reason why they, being a Nation at peace and in League with the *Romans*, would join with a Rebel, who had raised War against his Lawful Sovereign. In answer to his Demands they produced the Letters of *Procopius*, wherein he affirmed that the Empire belonged to him as the Kinsman of *Constantius*; and thence they argued, that it was but an Error they had committed, and such as was very capable of Excuse. But *Valens* judged it quite contrary, and declaring their Answer to be frivolous, when Spring was well advanced marched against them, and having rendezvoused his Forces near a Fort called *Daphne*, passed them over the River *Ister* by Bridges, as *Darius* formerly had done, beyond which (as that *Persian* King of old time) he could find no Enemy to engage, for out of fear they all fled to the Mountains of the *Serri*, which could not be passed but by such as were skilful in the ways. That he might not yet return without having something performed, nor be fain to have mis-spent a whole Summer, he sent *Arintheus*, the *Magister Equitum*, to surprize certain Families wandering in the Plain, which had not reached their Companions, and so he returned, having neither done nor received any great harm. The year following he made Preparations for another Invasion with the same alacrity, but was stopped in his Career by the immoderate overflowing of the *Danow*, and constrained to stay near a Village called *Carporus* till Autumn was already past, whence he retreated, and took up his Winter Quarters at *Marianopolis*, as he had done the year before, being not able to enterprise any thing by reason of the greatness of the Inundation.

35. That both these years he resided some time at *Marianopolis*, a City of *Mysia inferior*, and belonging to the Diocese of *Thrace*, is evident by the Subscriptions of several Laws, and of those some relating to Martial matters. Amongst other Burthens imposed on the Subjects of the Empire, as we have already hinted, was that of finding Horses for the Wars or other publick service; sometimes on one sort of People, otherwhiles on another, but especially on such who as Villains were bound and appropriate to certain Lands. Ordinarily they had been wont to discharge this Duty in kind, and furnish Horses as there was occasion; but now did *Valens* think fit to require Money in the room of them, either for that he found much fraud to be practised the other way, they often proving lame and unfound when to be used, (to prevent which Abuse yet there were several Officers wont to be employed;) or rather because under this pretence of Publick Service the Husbandmen were overburdened and disurthisted, to the great hinderance and decay of Tillage. Therefore that he might be sufficiently provided for this present War to the best ease of the People; he now by an Edict required, that three and twenty *Solidi* should be paid for every Horse; which Rate (however to him it seemed reasonable) was by following Principles thought Excessive, and brought down; who had in this subject great occasion to exercise their Indulgence, the poor Provincials being often much harassed by this Payment. But as *Valens* thought fit there should be made an Exchange of Horses for Money, so by another Edict made the following year in this very place, and in relation to this very War, we find that there was the same course taken sometimes for Men or Souldiers. For hereby he declares his own Estate or Possessions to be free from finding of *Troops* or new Souldiers, if Men themselves were to be provided; but otherwise chargeable, if Gold or Money in the room of them. For the Custom here, in varied, not only according to the variety of Times, but of Places also, some Countreies and Provinces exceeding others in the strength and agility of their Inhabitants; the reason why the *Thracians* were especially made choice of for the Wars, and other Nations low of stature, and offender Limbs, usually rejected, and Money taken in their place. But further, while *Valens* lay in Quarters at *Marianopolis*, to provide for his Souldiers against the Winter in that cold Climate, by another Edict directed to *Anonimus* the *Præfect*, he caused a sufficient Supply of Clothes to be brought

He orders
Money to be
paid in the
room of fur-
nishing Hor-
ses for the
War.

Colonus obnox-
iæ et adscripti
terre.

Stratarius.

L. 1. de Hæ-
rum collatione,
Cod. Th. l. 1.
lib. 15.

L. 2. de Tro-
pibus, Cod. Th.
lib. 7. Tit. 13.

L. 2. de Mil-
itari Vitis, Cod.
Th. l. 2. tit. 6.

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in betwixt the beginning of *September*, (whence at this time Indictions commenced) and that of *April*, being indeed as other Writers observe) exactly careful to supply his Armies with all Necessaries.

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36. Three years he spent in this War against the *Goths*, and in the third Summer reinvaded their Countrey, by a Bridge of Boats laid over the River at *Novidunum*. He fell upon the *Gruthungi*, a most Warlike Nation, the chief Magistrate of whom, *Athanarich* by Name, a very powerful man in that Tract, opposed him with such Force as he could make; but the Emperour forced him to seek for safety by flight; and having nothing of greater moment performed, retreated to his wonted station of *Marcianople*, the most convenient place to winter in, in all these parts. The season for Arms being over, the time proper to Consultation succeeded, and some Accidents there were which gave both sides occasion to think of Peace. By reason of the Prince his Absence the East was exposed to great danger; and the Barbarians were much distressed by the discontinuance of Commerce for so long a time, which constrained them to send Embassadors, and beg a Cessation in a submissive manner. The Emperour as yet bearing an affection to justice, and the Conveniences of his People, sent away *Vitor* and *Arintheus*, who agreed on the Place and Preliminaries of a Treaty. *Athanarich* affirmed, That his Father had made him swear never to tread on *Roman* Ground, and it was no whit becoming the Majesty of the Emperour to go to him, and therefore they met in Boats in the middle of the River, where a Peace was ratified, and Hostages delivered on both sides. This done *Valens* returned to *Constantinople*, where *Athanarich* afterwards also died, being banished his Country by the opposite and most prevalent Faction, and was very sumptuously buried after the *Roman* manner.

A Peace made
betwixt him
and the Gra-
thungi.

In the mean
time the Al-
mans keep
quiet.

But not to be
trusted.

49. While *Valens* was thus imbroiled with Wars in *Thrace*, *Valentinian* and the *Allemans* seem to have better understood one another, though this their Friendship not long continued. The year following after the Defeat given them by *Fovinus*, we find a Constitution directed to the same person, by name, as *Magister Militum*, whom therein he charges to take order with the *Duces* and *Comites*, and such as to whom the Custody of the *Rhine* was committed, that they should not permit the Souldiers upon the Borders to furnish those of the Blood Royal of those Nations, nor their Embassadors, with Horses. But he enjoyns that they make use of their own, till they came to the place where the *Cursus publicus* begins, of which they are allowed to make use as well as the Messengers of the Provinces; and till they there arrived sufficient Provision should be made for their Cattel at the several Mansions. This Law bearing date from *Rheims* a City of *Belgica secunda*, where *Valentinian* then lay; to whom those Nations having such recourse, it argues, that for the present there was Peace betwixt them. But as the Law doth intimate this, so on the other side, that it stood on such terms as obliged him to be watchful, and not to trust to his new Allies. For this Prohibition concerning the Horses of Souldiers was founded upon this Reason; Left by lending or letting them out they should be themselves disurthisted, and thereby the Limits exposed unto danger. For by reason of the *Allemans* and *Franks*, their constantly feared Incursions, there were, as is evident both from this Law and Histories, both *Duces* and *Comites* placed on the Borders of *Gall*, who lived after the manner we have formerly described; and besides them such as to whom the Custody of the *Rhine* was committed, viz. particular *Præfects* or Governors of the several *Præture* or Garrisons upon or near the River. But how little trust the Emperour gave to the Friendship of these Nations, further appears by another Edict written less than one Month, directed to the same person, and dated at the same City of *Rheims*; where in those days the *Magistri Militum* of *Gall* held their usual Residence. Therein he declares his Resolution to have his Troops completely filled, and for this purpose takes notice of and reforms another great Abuse practised at this time: It was the ordinary Custom for the Souldiers to take a long with them Youths of free and ingenuous condition, and with design to keep them free as to obligation to Service, to entertain them as Kinsmen, Peccies, or Attendants; and thus were such concealed, as intended to avoid the publick Service, or lifting themselves in the Armies: To remove which Inconvenience he commands, that the Souldiers produce all such Retainers to their Officers, who are enjoined to present them before *Fovinus* the *Magister Militum*, under pain of being put down from their present stations to more inferior places in the Army. And to such as detect any such Concealers he decrees Advancement. For, as there were several Degrees of Service in the Army, one more creditable than other, the Souldiers were often either preferred higher, or disgraced according to their Deserts. As sometimes an Officer from the Degree of *Tribune* put down to that of

L. 9. de re mili-
tari, Cod. Th.
lib. 2. Cod.
Th. l. 1.
Regulæ.

L. 10. ad. tit.

Regulatione
militie ma-
tis, gradus de-
positi.

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of *Primitivus, Biarchus, Circitor*, or the like. Sometimes reduced to a *Tiro*, or the meanest state and condition. Otherwhile from an Horseman condemned to serve on foot, or reduced from an higher to a lower Degree of the Infantry.

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Valentinian
determines of
what stature a
Soldier
should be.

Condemns the
Martyr to be
burnt alive.

Forbids Ma-
gistrates to use
his Ink or
Characters.

Makes a Law
to punish In-
grateful Sons.

38. Having taken this and other courses for supply of men, it was not his intention that all should be indifferently admitted to the Employment; but by another Law he shortly after declared, That the Stature of *Tirones* should be five Feet and *se-*
ven ordinary or usual Inches, to be observed at all Liftings under the *Vicar of Rome*,
to whom (*Magnus* by name) this Constitution is directed. Formerly the Stature of
Soldiers had been exacted to be six Feet, but this most rarely, and usually it stood
betwixt five and six, sometimes seven, and otherwhiles more, Inches being required.
This still wanted for the supply of Soldiers, a Law against such as by their own
procurement were rendered incapable of Military Service: Some cut off their Fin-
gers to prevent it, and such being in those times termed *Marci*, *Constantine* the Great
had thought fit to condemn to the Service of Corporations; which Edict of his *Ve-*
lentinian judged convenient to mention and to establish; and further ordaining,
that all who should in that manner be obnoxious for the time to come, should
be burnt alive; and if he was a Slave, his Lord should, if he knew of it, be very se-
verely punished. But it is to be noted, that these severe Laws had relation to *Italy*,
where it was a Custom for the Inhabitants to draw their Necks out of the Yoke, and
put other persons in their rooms, having been much of this humour ever since the
days of *Augustus*. But while *Valentinian* still lay at *Rheims*, he not only acted for
the reinforcement and convenience of his Army; something he did for the relief of
the Inhabitants of those parts. To such as being absent upon publick business had
been too heavily taxed, he granted liberty of one whole year to appeal and right
themselves: Whereas to such as were present or at home, five months were one-
ly allowed. It had been of a long time the manner of Princes, to prevent the con-
founding of their Instruments, to use peculiar Characters or a select Form of Writ-
ting, which none were to imitate, none were to write but such as served in the *Se-*
ria of the Emperor. But of late the *Proconsuls* of *Africa* or *Asia*, in their Rela-
tions or Consultations, had began in their Dispatches made to Court, to make bold
with the same Characters, which others had dared to practise, drawn thereto by their
example; and thence came it to pass, that the Emperours Hand and Letters were
counterfeited, and thereby the Provincials cheated of their Money, and otherwise
abused. To obviate such mischiefs by an Edict, he expressly forbids these Characters
to be used any where either publicly or privately, but in his own *Seria*, or by
the *Proconsul* or his Office; whose Authority otherwise was very great. This pecu-
liar way of the Emperours Writing was with the *Sacrum Encaustum* or Purple Ink,
which was ever forbidden to all sorts of persons, even the *Proconsuls* and *Præfetti* *Ve-*
lentinian. Yet did the *Questor* and *Præfetti* make use of certain Majestic Forms of Speech
or Titles, which the Emperours took to themselves, as *Nostra Serenitas*, *Nostra Ma-*
jestas; but *Justinian* afterwards removed that Custom also.

L. 3. de Tironi-
bus, cod. Th.L. 4. 5. ad
ill.L. 2. de Cris-
cod. Th. 13.
Tit. 10.L. 3. ad legem
Corneliam de
Falsis, cod. Th.
Tit. 19.
Fide Com.L. 3. de Ponde-
ratoribus,
cod. Th.L. unico. de re-
gratia Libertis,
cod. Th. l. 2. tit.
1. §. 1. §. 2. §. 3.
Spt. Anianian
Legationis
cod. Th.
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39. From *Rheims* *Valentinian* removed farther toward *Britain*, where now the
Pids and *Scots* committed great Outrages; and by the way of *Nemusa* (now *Nem-*
es, where he signed another Constitution for the ease of the Subject in reference
to Publick Payments) came to *Ambiani* or *Amiens*. Though so far distant from
Rome, he cast not off his wonted care for the Concernments of that Place and Coun-
try; but being consulted by the *Præfetti* of the City, by his Rescript gave order
for putting the old Laws into execution, against ingrateful and disobedient Chil-
dren. Whether by virtue of the Law of the Twelve Tables or otherwise, as In-
grateful *Liberti*, or such as had been let at Liberty by their Lords, and afterward
demeaned themselves ingratefully towards them, were again to be reduced into Sla-
very: So also such Sons, as had been emancipated or let at liberty, from that Pa-
ternal Power which the *Roman* Laws gave their Fathers, (both over their Persons
and their Estates) if they bare themselves contumaciously towards them, if they re-
viled or unjustly handled them, they were again to be reduced under their Authority
and Command. But, as we judge from this Consultation of the *Præfetti* of the City,
(whose proper Office it was to determine matters belonging to Emancipated Sons and
of Freedmen) such had been the Consequence and Fruit of the *Roman* Government,
or else the natural Duty and Obedience of Children, that this Law had seldom been put
in practice, else there would have been no occasion for the *Præfetti* to have doubted,
or any need for him to consult the Emperour, as he now did, being put upon it by
some accident, of which we have not any account. *Valentinian*, as the Father of
his Country, thought fit to shake off, and set forth to their view again, that Rod
which had been cast into a corner, and by lashing of one to terrify the rest, though
to

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to his own Son, at this time for other great and weighty Reasons, he shewed himself
very indulgent, the sixth day after the Date of this very Law.

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But Gratian
his own Son
he makes de-
posit.

He now disco-
vers the cru-
dity of his
Nature.

The Barba-
rous Nations
rage here in
Britain.

40. *Amulianus* writes, that about this time he had fallen dangerously sick, and
when both he and others expected nothing but Death, at a private meeting of such
Galla as served him, one *Rufinus Julianus* had been mentioned for his Successor, one
who had born the Office of *Magister Memorie*, but in the Opinion of the Historian a
Person as greedy of Mans Blood as a savage Beast, which he abundantly shewed when
he governed *Africa* with Proconsular Power. This was with greater reason oppo-
sed by others, who with better pretence contended for *Severus*, then *Magister Pæ-*
ditum, a man indeed very austere, but in all respects to be preferred before him. But
the Recovery of *Valentinian* put an end to the Hopes and Disputes of both Parties;
for he resolved when but in the way of Recovery, to give the Title of *Augustus* to
his Son *Gratian*, though at this time but twelve years old, a Youth very handsome,
and well enough inclin'd of himself, had he not been afterwards perverted by those
about him. Having prepared the Minds of the Soldiers, when he came to ascend
the Tribunal, he found no difficult work; for though he could allege nothing
of the moment concerning him that was to be preferred; yet with the sight of his
own person, he inculcated the Merits of his Family, and being himself now re-
covered, and established, easily induced them to consent, and to proclaim *Gratian*
Emperour in equal power. *Empraxius* of *Cefarea*, a Moor, and at this time *Magister*
Memorie, first of all others acclaimed *The Family of Gratian deserves as much*, and
being made *Questor* out of hand, continued a most just and painful Judge, ne-
ver deviating from those Rules, which by Justice and universal Indifference were
preferred him. Upon this new Promotion many persons exercised their Wits, and
chiefly in commendation of this Person. But his Father is noted by the Historian for
having exceeded the former Rule, in nominating his Brother and Son not *Cefare* but
Augusti. For in ancient times (you hear *Amulianus*) no man took to himself a Col-
league with equal Authority, except the Emperour *Marcus*, who made *Verus* his
Adoptive Brother Partner with him on equal terms.

Heic non con-
tradictum ex-
empla Severi
& Diocletiani,
qui non collo-
casit nisi pri-
mum Augustus,
sed statim Ce-
sares tantum
adjuverunt.

41. Matters having thus succeeded both according to the will of the Prince and
Soldier, *Maximianus* the *Præfetti* *Prætorio* was accused by *Aurélianus*, formerly
Vicar, of Extortion, and upon that account was *Valentinian* preferred to his
place; a man very fit for the Employment, and to be revered for his gray Hairs,
but ever seeking occasion to indulge his covetous humour. By his procurement *Or-*
stinus, who from *Præfetti* of the City had been sent into Banishment, was restored to
his own Country and Estate. And now the Humour of the Emperour, however
cruel, yet hitherto for his own ends covered and with violence suppressed, could not
but discover it self. *Diocles*, who had been *Comes Largitionum* in *Illyricum*, he
commanded to be burnt alive for very slender faults by him committed; as also *Dis-*
dorus, who had been *Agens in rebus*, he ordered to be put to death, together with
three *Apparitors* of the *Vicar* of *Italy*, for no other reason but because *Dioclorus*
commenced a Suit against a certain *Comes*, who was going to Court, and the *Appar-*
itors of the *Vicar* (according to their Office) admonished him to appear. And of
those persons the Christians at *Milan* formalized the Memory, calling the place
where they were buried *At the Innocents*. Many in Corporations he commanded to
be slain, who were preferred by the fableable Interposition of *Empraxius* the *Que-*
stor, and *Florentinus* the *Præfetti*. If any declined the Jurisdiction of a Judge, as
bearing him capital malice; to be sure he would (notwithstanding all Exception made)
remit him and his Cause to the Award of the same person. And if any Debtor was found
unable to give satisfaction to the Publick, he would pronounce that he ought to be
put to death. Returning from *Amiens* towards *Triers*, he received News out of
Britain, of great Slaughters and Wauke made by the *Barbarians* in this Island; that
Nectarius Count of the Maritime Tract, or as the *Noitias* terms him of the *Saxon*
Severus, was slain; and *Fullosaudes* a *Dux* was also circumvented by the Enemy. In
great haste and consternation he dispatched away *Severus*, at that time bearing the
Title of *Comes Domesticorum*, to put some stop to their Progress; but him he soon af-
ter recalled, and in his stead sent *Jovinus* with all speed to reinforce the Armies in the
Island; for so the conditions of Time and Place did require. But still worse News
arriving, in what danger these Provinces were, he made choice of *Theodosius*, a man
of eminent note for Military matters, who with a courageous Army both of Horse
and Foot, cheerfully undertook what was enjoined him. Several years before this
divers Alarms had been given, as in the tenth Consulship of *Constantinus*, and in the
third of *Julian*, who then lying at *Paris*, and distracted by various Cares, thought
not

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not fit to come over himself, left he should have exposed *Gall* to the cruel Rapines of the *Allemans*; but sent *Lupicinus*, then a *Magister Militum*, both a good Souldier and very skilful, but proud as far as Insolence, and concerning whom it might justly be doubted, whether he was more covetous or cruel. He brought over with him the *Heruli* and *Batavi* bearing Light Armour, together with two Troops of the *Mæstiaci*, and landed at *Rutupie*, at this day *Ribecheſter* or *Richborn* by *Sandwich*.

Theodofius sent
to repress
them.

42. What particular Actions passed betwixt him and the Barbarians we do not know; but whatever he did to restrain them, by this time they were grown again outrageously insolent. *Ammianus* tells us, that in that place of his History where he had given Account of the Acts of *Constantius Caesar*, he had also described both the Nature of the Ocean, and the Island of *Britann*, according to his Capacity; and therefore he would not repeat any thing thereof to our great loss and sorrow, as it happened: For that part of his History hath miscarried, as also that of *Polybius*, wherein this more ancient Writer had described this Island so far as it was known in his days. He adds, That it shall suffice only to say, that at this time the *Picts* were divided into two Nations, *Dicalidone* or *Caledonii*, and *Veſturiæ*, besides whom there were the *Atacotti*, and the *Scots*, who roved up and down, and did very great Mischief; while in the mean time the neighbouring Tracts of *Gall* were grievously infested by the *Franks* and *Saxons*; and each People strove as it were, which should exceed the other in Rapine, Burnings, and Leading away of Captives. *Theodofius* being sent to put a stop to those who harraſed *Britann*, took Sea at *Banonia* or *Boulogne*, and safely landed at *Rutupie*; whence, after that the *Batavi*, *Heruli*, *Jovii*, and *Villores* were arrived, he marched toward *Lundonium*, an old Town, which Posterity called *Augustæ*, and dividing his Forces into several Parties fell upon the Rovers, while scattered up and down and loaded with Booty. The Plunder and Captives he recovered; and having restored all to the Owners, except some small portion bestowed on the weary Souldiers, he returned to the City in a triumphant manner, which exceedingly incumbered before with Difficulties, he had hereby restored to its ancient Freedom. Now entering into a serious consideration what was further to be done he found by what he got out of Prisoners and Fugitives, that his numerous and fierce Enemy consisting of divers Nations, was not to be mastered but by Stratagems and sudden Attacks. First therefore by Promises of Impunity he reduced most of those who had forsaken their Colours, or straggled abroad, to their Arms; and to use still greater caution he sent for *Civilis*, to govern *Britann* as *Vice-Prefect*, a man of an happy nature, but very just; as also *Dulcitius*, one of the Dignity of *Dux*, and famous for his Military Skill.

Africk also in
a bad condi-
tion.

43. So went matters in *Britann*, while *Africk* ever since the beginning of *Valentinian* had groined under the Rage and Cruelty of the Barbarians in no less degree; the Incursions of whom had been furthered by the negligence, sloth, and greediness of the Army. Most remarkable was the Rapacity of *Romanus*, the *Comes*, who strove as it were to exceed the diligence of the Enemy in pilling the Provinces; yet being so cunning as to decline the *Odium*, he made use of his Affinity with *Remigius*, the *Magister Officiorum*, who ever told a fair Tale to the Emperor, and thereby kept him utterly ignorant of the sad estate of that Country, what wariness he pretended to. And indeed *Ammianus* writes in plain terms, That *Valentinian* was the first who encouraged and promoted the Insolence of Military Men, against the common good of the Empire; and how it is a matter to be lamented, that punishing with all cruelty the ordinary and common Souldier, he connived at the Crimes of the great Officers, who taking courage at this Impunity proceeded in those courses, as having the Fortunes of all men in their power; whereas of old time there was so great care taken, that the Commonwealth might not be oppressed through their Insolence, and too well known Ambition, that ancient Lawmakers chose rather to have some suffer innocently, than their Faults to go unpunished. But, at the same time the Barbarians broke into *Isauria*, where depopulating the Country they invaded *Pamphylia* and *Cilicia*, which they treated in the same manner, proceeding in their Rapines without any opposition: At length *Mulonius* the *Vicar of Asia*, who had formerly professed Rhetorick at *Athens*, fell upon a Party of them, but so ill disciplined were his Troops, that he was circumvented, and cut off with all his Men. The Rovers encouraged by this Success pursued their course, till more Forces coming upon them, drove them into the Straits near the Mountains, where being closely shut up, and finding no means to escape, they begged Peace by the Perſuasions of the *Germanicopolitani*, a People of great Authority amongst them, whose City *Germanicopolis* was the Chief and Head

The Eastern
army retired

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of all that part of *Isauria* they possessed, as *Selenicia* the *Metropolis* of what of that Country belonged to the *Roman* Empire. Peace being granted them, and their Hostages received, they kept themselves quiet for a good space, attempting nothing of Hostility.

Prætextatus
P. of A. of Rome
his Acts.

44. At this time *Prætextatus* exercised the Office of *Prefect of Rome*, and that with such Integrity and Courage, that he might justly be reckoned amongst those few who were both feared and beloved. By his Authority was appeased a great Tumult and Disorder, which had been raised about the Election of a Bishop. He took away *Balconies*, or Galleries made on the sides of Houses, which had been forbidden in the City by ancient Laws, being called *Mæniana* from one *Mænius*, who having fold his House to *Cato* and *Placcus*, then *Censors*, for the building of the *Basilica Porcia*, excepted out of the Sale one Pillar, on which he laid Timber that jutted forth, and built a Balcony or Scaffold, whereon he and his Family might behold the Fights of the *Gladiators*; which Act was imitated by others, till restrained by the Laws. *Prætextatus* further caused a Distance to be made betwixt publick Buildings and private Houses; and in every Region appointed certain Weights, observing that unjust and covetous persons changed and counterfeited them at their pleasure. In point of Judicature he had that advantage of others, which *Cicero* ascribes to *Brutus*, that although for favour he did nothing, yet on whatever he did, a favourable Interpretation was put. About this time one *Rando* an *Alleman* of Royal Descend, having long cast in his Head how he might do it, fell suddenly upon *Magnificus*, not fortified by any Garrison; and by reason that the Inhabitants were busied by the Celebration of a Christian Solemnity, (as *Ammianus* writes) easily made himself Master of it, and departed with Plunder, and so many Prisoners as he thought convenient. After this *Vithicabius*, the Son of *Valdomarius* their King, was murdered by one of his own Servants, that held Intelligence with the *Romans*, a cunning man, who could be removed by no other means than that of Treachery. *Valentinian* thought fit to make more than ordinary Preparations to prevent that Hostility which thereupon he could not but expect; and taking his Son *Gratian* along with him, passed the *Rhine*, and invaded their Territories, where for a good space he could light of no Enemy; but at length discovered them encamped on an Hill, whence he beat them down, and got a notable Victory. This done, the Souldiers went into their Winter Quarters, and the Emperours to *Trier*.

Valentinian
defeats the
Allemans.

Refers to
himself the
Cognizance of
the Crimes of
Senators.

45. To *Prætextatus* the *Prefect of Rome* *Valentinian* directed an Edict, by which he demonstrated how studious he was of the Reputation and Safety of Senators. This *Prefect*, as we have several times hinted, was the proper Judge of persons of that Dignity, so as in those days no Judge of a Province could censure them for any Crime. However now *Valentinian* commands, that before the *Prefect* should come to sentence, the whole Process be transmitted to himself, to whom he reserves the cognizance of the Cause, and the appointment of the Punishment: so great seemed his care for men of their Rank and Quality. Yet nine years after his Son *Gratian* thought fit to alter the form of their Trials, and indeed to abrogate this Law: For by a new Constitution he permitted the ordinary Judges or Governors of Provinces to have Cognizance of these matters. But then again whilst he gave leave to the *Prefect* of the City to determine the matter, and also to inflict what Punishment he thought fit; which *Valentinian* by no means suffered. Then where as formerly it belonged to this *Prefect*, to hear and determine the Criminal Causes, in what Province soever the Senator lived; *Gratian* limited his Authority to the *Suburban* Provinces, giving to the *Prefecti Pretorio* Jurisdiction over the rest; and when the *Prefect* of the City judged them, it should be by the assistance and concurrence of five other persons. And so did *Gratian* partly enlarge, and partly diminish the Power of the *Prefect* of the City, whose Jurisdiction became in those times more appropriate to the *Suburbanian* Provinces, and that of the *Prefecti Pretorio* more and more increased. As *Valentinian* concerned himself for the Privileges of Senators really such; so by another Constitution, directed shortly after to the same *Prætextatus*, for such as obtained the Honourary Title thereof, without the Burthens thereunto belonging. These were they who had discharged duly the *Palatine* or Court Employments, particularly *Notaries*, and such as served in the *Servitia*, *Agentes in rebus*, *Admissionales*, and the rest. When they went out of their Services they were advanced to the Degree of *Perſeſſiſſimi*, or, if *Comites* or *Triumvires*, to an higher rank of Honour; receiving commonly Letters Testimonial from the Prince, directed to the *Prefect* of the City, being the Judge or Keeper of Dignities. But *Valentinian* observed, that by so great Indulgence to all sorts of persons,

A.D.
367.
Valentinian is
in *Ann. 13*
127.

Prætextatus
P. of A. of Rome
his Acts.

Valentinian
defeats the
Allemans.

Valentinian
defeats the
Allemans.

Valentinian
defeats the
Allemans.

Set. 3.

Edict to *Viventius*, the Emperor takes notice of it, as an unlawful Practice; “and yet that his Occasions might be served, he Commands that for the time to come, such as kept Viaticall, or Tipling-Houses, should be compelled, as idle Persons, to supply the places of those whom the Countries could by no means spare. He took notice of another great Abuse committed against miserable People, under pretence of Treason, or of Estates, by other Courses of Law, falling to the Emperor, as where no Heirs were to be found; for Rapacious Officers, or Malicious Neighbours would affix Titles to Houses, or Lands, denoting them to belong to the Prince, which by a Law directed to *Florentinus* the *Comes Reipublice*, he endeavour’d to prevent. “He Ordains that upon any such Occasion, there be Solemn Proceeding had, both by the said *Comes*, and the *Rationales*, (under his Disposition) in all the Provinces; that an Account be taken of all perticulars; and the Titles affixed to any such Estates, be not made without sufficient Testimony.

erty. But, to prosecute further the Reformation intended, he resolv'd to go to work with the Governours of Provinces themselves, of whom severall he put to death, for their Avarice and Oppression, amongst whom one *Rhodanus* the Master of his Palace. And lying now at *Triers* in Springtime, he considered that the Governours, or Judges, would soon begin their Annual Progress, or Visitation. For it was the Custome for them to lie in Winter in the Chief Cities, or *Metropoles* of the *Provinces*, and there Administer Justice, and Determine Causes; but in Summer, the better to understand the Wants and Complaints of the People, to provide for the plenty and cheapness of Provisions, for the Payment of the Publick Revenue, and the like, they were wont to Visit other Cities and Places within their Districts, and make a Progress, or take a Circuit throughout the Provinces; which that they might the better do, they were allowed the Use of the *Cursus Publicus*, and in each City, were entertained for three days by the *Civiles*, and Merchants. But instead of making their abode in the most Publick places, where the People might have best Access, some were wont to break themselves to places of Retirement and Pleasure, where they might solace themselves with such Company and Diversions, as they best liked. Of this he takes notice, and by a severall Edicts, directed to *Vientius* the *Præfect*, on the first of *April*, Commands, that each of these Judges there make his abode where the People may best comeat him, and not chuse out any place for Delight; adding further, that whosoever shall in a Progress entertain any Governour of a Province at his Houfe, shall Forfeit the Land whereon it stands, to the Publick Treasury. And by this means he saith, these Governours may be induc'd to repair or build up the *Manfions*, by which are meant either those properly so called (wherein the Emperour and the Souldiers repos'd themselves in their marches, that were furnished with Granaries, and Houfes for Provisions; of which, together with the *Manfions* themselves, these Governours had the Charge) or else Houfes of Judicature, which sometimes are also termed the *Manfions* of Judges. This Severity *Valentinian* us'd, to restore to the People the ancient Advantage received by these Circuits, which to Reinforce, as he by this Law requires the Judges to make choice of such places, as wherein they might give easiest Access; so on the other side, by *Majorsanus*, afterward were the *Agents* and *Procurators* of the Emperours Lands, of the Lands of Senators and Great Men, ordered to give their Attendance upon them so long as they continued in those places, for the better Payment of the Publick Duties, wherein often those Officers would be behind. But yet *Valentinian* his Care for the Use of those Circuits, was not satisfied by this Law directed to *Vientius*, for on the same day, he gave out another on the same Subject, to *Probus* the other *Præfect*. In this he requires that those Judges, pass through all the Villages, and Towns, as speedily and often as they can, and there diligently learn of private Persons, what Insolent or Rapacious Act had been Committed by any *Compulsor*; who, if thereof detected, and his Matter Presented to the Emperour, should be put to death. This *Compulsor* was an Officer who Collected the Publick Tributes, or who after the Collector, was appointed to be earnest with the People, and Compell them to Pay, by whom they were often very cruelly handled.

51. Several other Edicts *Probus* received at this time, some of which we shall not trouble the Reader with, as not so proper for his knowledge. But *Valentinian* having lately Published one for the ascertaining of Confiscate Estates, yet found it not sufficient; but so that he was cheated, either by those that seized them.

A.D.

3 6 9

L. 1. Ne operæ
Conlutoribus
exigantur. Cod.
Th. lib. 11. Tit.
10. & L.
un. Cod. Just.
eod. Tit. pri-
mam tantum
habet sententi-
am.
L. 1. de Incorpo-
ratione. Cod. Th.
lib. 10. Tit. 9.
& L. 3. Cod.
Justin. de bo-
nis vacant. &
incorporat.

L.4.de Officio
Refforis Pro-
vincia.Cod.
Thlib.1.Tit.7.
Abest à Cod.
Fast.vide Com.

L. Prox. cod.
Tit.

Chap. 2.

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He takes a further Course for a certain ing Confiscated Estates.

them, and concealed part of what they found, or by such as begged the Estates, and kept him ignorant of the true Value; so that he understood not the measures of his own Bounty. To *Probus* therefore he directed another Constitution, which is especially taken notice of, and by Lawyers esteemed as most Elegant. "That there might remain no place for Fraud, he orders a double Inquisition to be made: The first by the Officers of the Ordinary Judge, or Governour of the Province, who should make a most full and Comprehensive Inventory, and transmit it to the *Rationales*, belonging to the *Comes Rei privatae*, which before this had never been done. Then were the Officers of the *Rationales* to take another Account, and send up the first Survey to the Emperor, that in case those belonging to the Ordinary Judge, had concealed any thing, they might be condemned in the double Value of it. The form of the Inventory, because found to be the most exact Pattern of all others, was this: What the quantity of the Ground was, and what its Nature or Quality. How much was Tilled, and what was untilled. How much in Vine-yard, Olive-yard, Arable Pasture, or Wood. What Convenience belonged to the Place, and how pleasant or delightful it was. With what Buildings or other Contrivance it was furnished. How many Slaves belonged to the Place, whether they were Country, or City Slaves, and what were their Qualities, or Indowments: What Husbandmen there were, and what Tenants that held portions of Land; as here in *England*, by Hides. What numbers of Oxen for the Plough. What and how distinct Herds of Sheep, or Cattel. How much Gold or Silver, Cloaths, or Jewels in *specie* or in Weight; and of what sorts. And lastly, what Furniture, either for a City House, or a Country Farm. By this may be seen how exact *Valentinian*, or the Lawyers about him, was in things of this Nature; that as well Moveables, as Immoveables, were Consecrated to the Treasury of the *Res privatae*, or annexed to the Patrimony of the Prince; and that this Silver and Gold were not wont to be brought into the Treasury of the *Comes Sacramum Largitionum*; (the Lands being united to the very Patrimony, as some have held) for the Law Declares it otherwise in express Words.

Orders how
such as had
obtained titu-
lar Dignities
should find
Horses.

Relieves the
Advantage re-
ceived by
Bread, to the
Use of Poor
Citizens.

52. To the same *Prætor*, he issued out another *Edict*, which was received at *Sirminum*, on the sixth of *June*, Concerning the finding of *Horfes* for the War, by such as by *Codicils*, or *Lettres Patentes*, had obtained Dignities. Those Persons were obnoxious to various and Extraordinary Services, or Payments, and upon that account, were wont often to be much vexed by the Emperours Officers, who would still be upon them upon all occasions, and make them pay for their Aery Honours, particularly for *Horfes*, as well as other matters. Whether now, at the Petition of some of them, or induced by other Motives, for their future ease, he settled this matter so, as that He who had by such Honorary Codicils or Letters obtained the Dignity of *Comes*, should every fifth year find three *Horfes*, and He that had procured that of *Prætor*, only two; the former Honor being esteemed the greater of them. Having ever a great care, for the satisfaction of the Citizens of *Rome*, by another *Edict* directed to the People themselves there, he removed an Abuse Committed against the Publick Charity. Out of the Provision made for the poorer sort, which they termed *Annona Populares*, and *Ciccia*, twenty loaves of Brown or Coarse Bread, was wont to be sold to poor people at a small price, or ease rate, wherein the Benefit, or Advantage consisted. But what was intended for the benefit of the poor, was fraudulently drawn to the use of other Persons, who came in with the poor, and made the same Market of this coarse sort of Bread. As first the *Officials*, or *Apparitors* of the Ordinary Judges, who had other Allowances belonging to them as such. Then some sent amongst them their Slaves, who under a Covert of Freedom, laid hold of this occasion to cheat Indigent Citizens; and besides these, such as had Bread distributed to them by reason of, or belonging to their Houses, pretended, and made bold to challenge this Privilege also. *Valentinian* to reduce things to the design of their first Institution, by this *Edict* directed to the People, alters quite the Custom; for instead of their twenty coarse Loaves, which containing fifty ounces, were sold to them at an ease rate, he Ordaines they shall have *gratis*, or on free Gift, six Baskets of clear Flour, whereof each should weigh six Ounces. All Officials Slaves, or any who obtained Bread by right of his House, he forbids to pretend to this Privilege, upon pain of losing such Allowance, as otherwise belonged to him; or of Corporal Punishment. If any shall sell his Right to this Bread; to such as Accuseeth and detecteth him, he grants the Allowance, both of Buyer and Seller; if it was received upon other Stairs, or

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7. de bonis
scriptorum
od. In lib. 9.
tit. 42. et L.
od. Just. cod.
tit.

“Que Casari”

*L. un. de Obla-
tione Equorum
Cod. Th. lib. 7.
Tit. 23. Absq[ue]
hic tit. d. Cod.
Justin.*

Pannis fordis
us.

u L. de annon. & p
 u Civicis & p
 u ne gradili. C
 u T. lib. 14. T
 u 17. Abst. à
 u Cod. Justin.

Sec.2. which after a full hearing of the Cause, confined him to *Bœa* a place in *Dalmatia*, and by so gentle a Sentence incurred the displeasure of the Emperor, who had appointed him to no less a punishment than that of Death.

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57. The City was wonderfully alarmed by so frequent acts of Cruelty, and every one making the Case his own, by Decree of the Nobility a Message was sent unto the Emperor. *Pretextatus*, who had been *Præfēt* of the City; *Vennustus*, who had been *Vicar*; and *Minervinus* having exercised the Power of *Consulars*, were the men; instructed in such manner, as to desire that so great Punishments might not be awarded to Offences, and that none of *Senatorial* Degree might (contrary to all Law and Custom) be subjected to Examination by Torture. When they were admitted into the Consistory, *Valentinian* denied he had given any such severe Orders, and cried out that he was abused; but *Empraxinus* the *Questor* gently refell'd what he said, and by his reasonable liberty of Speech a stop was put to so direful Proceedings. Yet about the same time *Lollianus* a Youth, the Son of *Lampadius*, who had been *Præfēt*, was convicted before *Maximinus* of having copied out a Book of Evil Arts, notwithstanding his green years, and by direction of his Father, appealed to the Prince; but being sent for to Court, was delivered into the Hands of *Phalargus* the *Consular* of *Betice*, and perished by those of the Hangman. Moreover, *Bajfus*, who afterwards came to be *Præfēt* of the City, his Brother *Camenius* with two others, all of them of the Degree of *Clarissimi*, as guilty of such a Crime, had perished in like manner, had they not been saved by the Interest of *Victorinus*, who was esteemed the most inward Friend of *Maximinus*. Neither was the other Sex exempt from these Calamities, very many of Noble Birth being put to death under pretence of Incontinency. Amongst these were most eminent *Claritas* and *Flavinus*, who being led to death was stripped stark naked, so as he had nothing to cover those Parts which Nature would conceal; of which Villany the Executioner being convict was burnt alive. Besides these *Papius* and *Cornelius*, both Senators, having confessed that they had tampered with Poisons; were executed, and the *Procurator* *Monetes* in like manner was put to death by his Award. *Sericius* and *Asbolus*, formerly mentioned, by all means he endeavoured to induce to accuse other persons, and for this purpose he swore he would neither destroy any by the Sword or by Fire; and therefore to keep his Oath he killed them by meer strokes of Plummets: and lying under no such Obligation to *Campeus* the *Arusex*, he caused him to be burnt alive. Growing confident upon his Success, and strutting in the huff of his Pride, he began to despise even *Probus* himself, the chief of all the Nobility, who justly seemed to deserve that high place he now bore of *Præfētus Pretorio*. This was perceived by *Aginatus* the *Vicar* of *Rome*, who taking it very disdainfully that *Maximinus* was by *Olyrius* preferred before himself in the Examination of Causes, secretly advertised *Probus* thereof; and added, that if he so pleased the Coxcomb might easily be brought down.

58. Some said that *Probus* fearing *Maximinus*, as one now practised in Villany, and in great favour with the Emperor, sent him the Letter of *Aginatus*, at the sight whereof he was inflamed with an impatient desire of Revenge. Another thing happened, which ministered further matter for *Aginatus* his Trouble: He spake against *Victorinus*, who by this time was dead, as one that had been assiduous to *Maximinus* in his unwarrantable practices, and was further so inconsiderate, as to threaten to sue and molest *Anepha* his Widow, though he had left him a very large Legacy. She being afraid of him, for her security applied her self to *Maximinus*, and to make him her true Friend, pretended her Husband had left him in his Will three thousand pounds of Silver. He swallowed all the thought to bait him with, and having got this Advantage challenged one half of the Inheritance, and not therewith content invented a way whereby he might devour the whole Patrimony; and this was by marrying his Son to the Daughter of *Anepha*, though she was only the Step-daughter of *Victorinus*. This done, and having more firmly secured his Interest, he acted still with more rigour and violence, and so extravagant were his Proceedings both against poor and rich; as what *Amnianus* tells us in particular thereof, seems almost incredible to those that read him. But when he was out of his Office, called to Court, and advanced to be *Præfētus Pretorio*, he was no whit mended by this better fortune, but did mischief (so *Amnianus* observes) as Bafilisks are wont to do at a distance. At this time the Brooms wherewith the Senate House was swept were seen to blossom, which in the opinion of those that took notice of it portended, that some of vile Extract should arrive at the greatest Dignities. And indeed most of those that executed the place of the *Vicar* of *Rome* being no others than the Creatures of *Maximinus*

Sec.2. *ximinus*, most horribly abused their Power. But of these *Upsilonnus* shewing more favour than was usual, yet left his Power of *Vicar* without the usual Approbation: For he was despised as cowardly deferring of business, and indeed being cautious he informed the Emperor, and referred to him the Case of one *Ejans* and others, that were kept in hold for committing Adultery with *Rufina*, one that accused of Treason her Husband *Marcellus*, who had formerly been an *Agens in rebus*. After him succeeded *Simplicius Homunculus*, who had been a Professor in Grammar, and from that calling became a Counsellor to *Maximinus*, and was very fit for his turn, by a civil and obliging Carriage concealing the inward cruelty of his Nature. And first he put to death *Rufina*, with all that had either committed Adultery with her, or been privy to the Crime; after whom were punished many as well innocent as guilty. For if you will believe the Historian, in this bloody business he seemed to contend even with *Maximinus*, and endeavoured to demonstrate himself most active in destroying the Nobility; so as to the other Acts of *Bufris*, *Anteus*, and *Phalaris*, there appeared nothing wanting but the Bull of *Agripenus*.

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59. Several such Acts of Cruelty happened; but the Case of *Eumenius* and *Abienus* are mentioned as most remarkable: These two had been under *Maximinus* accused, as having had too familiarly to do with *Fausiana*, a Woman of Quality, and as long as *Victorinus* lived had secured themselves sufficiently; but when *Simplicius* came to the place, for fear they betook themselves into secret corners, especially after the Condemnation of *Fausiana*, and particularly *Abienus* hid himself with *Anepha*. Now as unfortunate persons never want matter of Woe, it happened that one *Apandinus*, a Slave of *Anepha* being enraged that (according to the custom of Slaves) his Wife had been scourged, went by night and acquainted *Simplicius* how matters stood; who presently lent his *Apparitors*, and forced those that concealed themselves from their Retirements. And *Abienus* was put to death, as having abused the Body of *Anepha*, which filly Woman cried out with purpose to save her Life, that in the House of *Aginatus* she had been practised upon by Magical Arts. *Simplicius* hereof advertised the Emperor, upon whom *Maximinus* at that time waiting, and bearing *Aginatus* malice for the reason we have heretofore related, earnestly solicited *Valentinian* by a Rescript to order he should be put to death; but being aware of that Load of Infamy which would fall upon him, in case *Simplicius*, who was known to be his Friend and Counsellor, should execute the Sentence upon a person of *Patrician* Degree, he kept the Precept by him for some time, considering whom he should trust with so great a piece of Service. At length (as evil Instruments are never wanting to wicked purposes) one *Doryphorianus* a *Gall*, a Fellow impudent even to madness in self, he found out and procured him the Place and Authority of *Vicar*, to whom he gave the Rescript of the Emperor, and therewith Instructions how he might best put it in execution; which was by using all expedition, for if the least delay happened, he affirmed the man would most certainly escape. He making all haste to *Rome* imaginable, when all persons came to pay him their Visits, little minded them, being solely intent upon the way and means how to compass the death of *Aginatus*. Having notice that he was at his House in the Country, he caused him there to be apprehended, and together with him *Anepha*, to be brought before him by night, as to hear the Cause; but upon his entry he was laid in Chains, and his Slaves, who had been for this purpose starved in prison, were brought forth to accuse him, and by Stripes even torn in pieces, to constrain them to do it, contrary to what the Laws indulged in this case of Incontinency. Saying what he would have them, in such Agonies, as seemed to suffer in no less than very Death, upon these words was *Aginatus* condemned, and without being heard sentenced and executed, though he appealed to the Emperours; and at the same time *Anepha* received the like Award. And so prospered for a time the Villainous Projects of *Maximinus* and his Complices; but Vengeance though often slow, yet commonly overtakes such merciless persons: For *Maximinus* afterward under *Gratian* bearing himself with answerable Insolence, had his Throat cut by the Hand of Justice. *Simplicius* had the like end in *Ilyricus*, and *Doryphorianus* being condemned and cast into prison, the Emperor sent back into his own Country in *Gall*, and there commanded him to be tortured to death.

The ill Ends
afterwards of
Maximinus
and his Com-
plices.

60. This *Maximinus* by several Laws, as well as some Historians, is called by the Name of *Maximus*; and from the Laws this Story of *Amnianus*, relating to his Cruelties, receives Confirmation; as it on the other side affords light to some thing enacted by *Valentinian*, of which otherwise so fit an Interpretation could not be given. *Amnianus* tells us of Rescripts made by the Emperor upon the malicious Re-
K k ports

Sect. 3.

ports of *Maximinus*; and how the first occasion was given to these cruel Acts by the bringing of certain Persons into question by *Clilo* and his Wife before *Olybrius*. And to *Olybrius* there is still extant an Edict directed under the Title of *Præfēt* of the City, whereby may be too easily evinced the facile humour of *Valentinian*, in reference to those fervent Courts. All Persons of what Quality soever, were subjected to Tortures, and to great a fence the Nobility had of this practice, that the sent to the Emperor their Meflengers with a Petition to put a flop to it. "He" writes to *Olybrius* that None should be subject to Torture, whom either former Service in the War, or their Birth, or Dignity protected, without his Consent first obtained; except in Case of Treason, wherein all Persons he faith are of equal Condition. But if any was Convicted to have Forged the Emperours Hand, there needed no Consultation of the Prince in that Case, except the person were one of the *Palatines* or a Courtier. Here he declares particularly exempt from "Torture the *Veterani* or old Soldiers, the *Curiales*, and Persons of *Senatorial* Rank," besides others at present Dignified by their Employments, or the Prince his favour. But he excepts the highest Criminals or those that were Guilty of High Treason, who by indec by all Law formerly in Force, forfeited all Privileges granted to other Offenders, as also did they who were found guilty of Magical Arts, in the Emperours Palace, a Crime which these times equalled with High Treason it self;" in like manner as in this Law, *Valentinian* conjoins the Counterfeiting of his Hand. And to speak indifferently, by an Edict penned with so many exceptions, this Emperor seems to have so gratified the Nobility upon their Petition, as yet to have left open a door for the indulging of his cruelty upon all occasions. If any one was accused to have Counterfeited his Hand; against him *Maximinus* or any other might proceed without any molestation, and if any persons privileged by former Service, Birth or Dignity were accused, he referred to himself power of Subjecting them to Torture, upon Consultation; besides that vast latitude given to Accusations of Treason, which he or his Ministers might easily Forge. This our veracity obliges us to observe both concerning the humour of this Emperor, and the Privileges granted by former Laws to several sorts of persons, against Examination by Torture, of which more hereafter.

61, but *Valentinian*, at the same time, driving on high Designs against the Enemies of the Empire, thought fit, for prevention of the Excurſions of Barbarians, to Fortifie the *Rhine*, from *Rhetia* as far as the Ocean, with great Ramparts, Forts, and Caſles, where he ſaw convenient, all along the Coaſt of *Gall*, and by vaſt labour and Charge, (his Men wading up to the Neck while about their work) brought one of them to perfection upon the River *Nicer*. But endeavouring to raiſe a Fortification in the Enemies Country, when he would not be diverted from his purpoſe by the Fathers of the Hoſtages which had been given up into his Hands, his Men were all Cut off, not one returning with the News of the Deſeat, beſides *Syagrus*, then a Notary, but afterwards *Prefect* and *Conſul*, whom in a Rage he Caſtired and confined to his own Houſe, for that alonely had eſcaped. In the mean time great Robberies and Murders were committed in *Gall*, by which, amongst others perished *Conſtantinus* the *Tribunus Stabuli*, an Ally of the Emperour, brother to *Cerealis*, and *Juſtina*. But the Audaciouſneſs and Induſtry of the *Maritocaprenſes*, Inhabitants of a Town in *Syria* of ſuch a Name, near to *Apamea*, is moſt remarkable, who in the Habits of Merchants or *Honorati*, invaded and ruiſed whole Towns and Villages. None could be provided for their coming, ſo uncertain was their time and way; for as inconſtant herein they were as the wind, in reference to which ſudden and unexpected Onſets, *Ammianus* tells us that the *Saxons*, of all Enemies were in thoſe days moſt dreaded. In like manner as when a Condemned Criminal was to be put to death, the *Rationalis* of the Treafury, with his *Apparitors* came to the Houſe with their *Præco* before them, ſounding a diſmal Note, and having Executed the party, ſeized on what was found in the Houſe; ſo theſe Robbers by Companies having found out their prey, imitated the Courſe of Juſtice. But having in this manner enriched themſelves, by the Emperours Forces, they were utterly deſtroyed, not one being left alive; and together with them all their Children, left having once attained Impenſes of Age, they might drive the trade of their Fathers.

62. About the same time *Theodosius* here in Britain marched from *Augusta*, which the Antients (our Author tells you) called *Lundonium*; and with a stout Army he had carefully provided, repaired much the weak and tottering Estate of the Provincials. Discharging as well all the Offices of an active and hardy Soldier, as

A.D.
3 6 9.

L. I. de uq-
sionibus
Cod. Tn. lib.
9. Tit. 35.
L. nullus omni-
no 4 Cod. Just.
ad leg. Jal.
Majst. hinc
de sumptu est;
posteriori tam-
sententia omi-
sz, sed & priv-
va innotata.

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of a flagitious and rebelliant Captain, he defeated several People, whom Pride and Insolence had thrust forward to their own ruine, and laid the Foundations of quiet and security for a long time, restoring both the Cities and Garrisons, though in never so great disorder, to as good a condition as ever they had been in. But while he performed this signal Service to the State, and secured the Countrey, he himself was in very great danger : For one *Valentine of Valeria*, (call'd of *Pannonia*) an insolent Fellow, Brother to the Wife of *Maximinus* the Horf-leach later mentioned, being for a great Offence banished into this Island, impatient of reploted how to destroy him, as the onely person that was in a condition to withstand all mischievous Designs he had in his Head. As opportunity presented it self, by great Promises he allured both banished persons and Souldiers, and prepared them for an Attempt ; but ere the Design was put in execution, it was discovered to the General, who thereupon committed *Valentine*, with some few of his most intimate Complices, to *Dulcius a Dux* in these parts, with Orders to put them to death. But having reason to be cautious, as he was a man in Military Skill surpassing all others of his time, he would not permit any further Inquisition to be made into the Conspiracy, lest by terror struck into so many guilty persons, the tempestuous Troubles of the Provinces at present well appeased, should again revive. He turned himself from this business, to the settling of matters as yet out of order, and chiefly to the fortifying of the Borders ; and having recovered a Province which the Enemies had overrun, and restored it to its former condition, upon his motion it had a Governour of its own appointed, and by the Prince his command received the Name of *Valentia*. These Enemies must be the same with those *Annumianus* formerly mentioned, viz. the *Pisii* and *Scoti*, whom *Claudian* the Poet, in his Panegyrick to *Honorius*, the Grandson of this *Theodosius*, mentions also as beaten, and restrained by him. The *Arcani*, a sort of men instituted by the Ancients, being by little and little degenerated, he removed from their Stations, it being apparent that (induced thereto by great Rewards) they had discovered several times to the Barbarians what was done or debated by the *Roman* Officers, quite contrary to the design of their Institution : For their charge was to run to and fro, and having made Discovery of what the Enemy was about, thereof to advertise the Commanders. After he had with much commendation performed this Service, he was sent for to Court, and (if the Historian flatter not his Son) left his Charge with no less Honour, than formerly had waited on the Industry and Fortunes of *Furiv Canillus*, or *Papirius Cursor*. Indeed *Symmachus* tells his Grandson, that for these Achievements both in *Britain* and *Africa* he had Statues erected to his Memory ; but this may be conceived done after the Advancement of his Family. *Cambises* also brings in *Pacatus Drepanis*, telling amongst other things how the *Sot* was driven by him into his Fens and Bogs, and the *Saxon* confumed by Battels at *Sea*.

63. The Year following being the CCCCXX. of our Lord, had for Consuls the two Emperours *Valentinian* and *Valens* the third time, *Olybrius* still continuing *Præfect* of the City, to whom succeeded *Ampelius*; ere the Year was out. *Olybrius* his Government was too milde and gentle, especially considering the great Luxury and Effeminateness both of Senators and the ordinary fort, which *Ammianus* describes in many words. His onely study was how to be Complaisant; he was a bitter Enemy to Calumniators, (yet employed *Maximinus*) and to the Rapacity of the Treasury; and very upright of himself in all matters of Judicature; but in his declining years he was given also to Luxury, pleasing himself with Stage-Plays, and addicted to Women, though in no forbidden way; and his Succesfull was much of his humour, for though now and then he made shew of Severity, and to reform some particulars relating to Taverns and Vichualling Houles; yet again he grew remiss, and so did the more harm by his Inconstancy. As seldom ere did Ruine and Desolation fall upon any State or Nation, but Vice and Debauchery ulthered them in: So this very Year the *Saxons* from the Sea ingird multitudes fell upon the Borders of the Empire, where they raged with Fire and Sword, and committed grievous Outrages. Against them *Nannienus* a *Comes*, a good Souldier, who commanded in thofe Parts, made head, but finding himself too weak to militate the flock, therewith acquainted the Emperour, who sent *Severus* a *Magister Militum* to his assistance; and he having the Command of a good Army, fo distressed and terrified the Enemy before they came to fight, that they begged peace, which after much debate being found convenient for the Empire, as matters stood, was at length granted them; but as they were returning to their own Scatters, they were all cut off by thofe that were sent to

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Ille levis Man-
ros, nec falso
nomine Piſces
Edomuit, Scro-
tāmq; vago
mucrone ſicu-
tus. De tertio
Honorii Con-
ſulatu.

Lib. 10: 8.22

The third
Consulship of
Valentinian
and *Valenc.*

The Saxons
Infect the
Coasts.

After Peace
granted are
perfidiously
cut off.

A Cunning
Law made by
Plutarchus,
whereby he
seems to have
further streng-
thened the
Hands of Mi-
series.

Valentinian
indeavouring
to raise a Fort
in the Country
of the *Alis-*
maxs, loseth
his men.

The *Maya*—
expressi
strange Rob-
bers.

Utterly root-
ed out.

Torode is from London, settles matter here in Britain.

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way-lay them, most perfidiously doubtless; although *Amianus* not able to excuse the Crime in the whole, would do it in part by terming them no better than a Company of Thieves and Robbers.

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64. This Treachery thus well succeeding, *Valentinian*, who all this Year lay at *Trier*, seriously considered how he might best curb the Insolence of the *Allemans* and *Macriani* their King, who ever and anon affronted him by their Inrodes, and notwithstanding they were frequently defeated, and returned with great loss, yet were as numerous as if they had not been touched for many Ages together. At length he resolved to make use of the *Burgundians* against them, a warlike Nation, very populous and terrible to all their Neighbours. He held private Intelligence with their Kings, and by Letters promised to pass the *Rhine* with his own Forces, and assist them in that work they thought was too much for themselves alone. They willingly accepted of his Alliance, both because they imagined they were defended of old time from the *Romans*, and because they had bitter Contentments with the *Allemans*, about Salt Pits and the Limits of their Country. And they were ready at the appointed time; but the Emperor being employed in building Forts, failed of his word, and they sent to him that he would come and fetch them off; but as to this, Delays were also made, wherewith enraged as finding themselves abused, in great wrath they put to the Sword all the Prisoners they had taken, and returned into their own Country. A King amongst these *Burgundians* was by a general Name called *Hendinus*, and was wont to be depofed, if under him they had had ill success in War, or the Earth had not brought forth Fruits in a plentiful manner: Like as the *Aegyptians* of old ascribed such Accidents to their Governours. Their Chief Priest they called *Sinitus*, being for Life, and obnoxious to no such severe Laws as their Kings were. *Theodosius* then *Magister Equitum* made war upon such of the *Allemans*, as for fear of that Nation were dispersed through *Rhetia*, of whom for many as he took, he sent by the Emperours Order into *Italy*, where receiving a fertile Country about the *Po*, they continued Tributaries to the Empire.

The Emperour
being abused
by Valentinian
&c.The Province
of Tripolis in
a sad condition.

65. About this time miserable was the Condition of the Province of *Tripolis* in *Africk*, partly by reason of the Incursions of Enemies, and chiefly through the Deceit and Villany of pretended Friends. The next neighbouring Nation to them were the *Asturianis*, a sort of Barbarians exceedingly addicted to Rapine, who made frequent Inrodes; but being perfwaded or compelled to be quiet for some time, more vigorously than ever renewed their Hostilities upon this occasion. There was one of their Countrymen, *Stachao* by Name, who coming within the *Roman* Pale plaid there several pranks, and ventured so far as to tamper about betraying of the Province, for which he was apprehended, convicted, and burnt alive. Hereat they exclaimed as a most cruel and perfidious Act, and like to wilde Beasts all ran out of their Dens to revenge the death of their Friend and Kinsman; which thing happened when the Emperor *Jovian* was still living. They were not so bold as to attack *Leptis*, a City strong both in its Walls and number of Inhabitants; but for three days continued in that fruitful Country about it, where they killed all they met with, burnt what stuff they could not carry away and took prisoner *Silvius*, one of the *Primates* of the Town, who by chance was then with his Family in the Country. Those of *Leptis* concerned (as they had reason) at such an Accident, desired Protection of *Romanus*, who then was newly promoted to be *Comes* of *Africk*; but he refused utterly to stir, except they would make very large Provision for him, and besides furnish him with four thousand Camels for his Expedition. The poor people were amazed at his demand, and declared, that after so much loss sustained by the Barbarians, they were in no condition to make such Preparations, which he having heard, after forty days shuffling and dissimulation rose up and went his way. All their hopes as to assistance from him being gone, and the time of the General Council of the Province, which with them was Annual, being now at hand, they made choice of *Severus* and *Flaccianus* for their Messengers, who with certain Golden Images of Victory, which they sent to *Valentinian*, as Congratulatory upon his Assumption of the Government, as we have said the Custom was, should also present him with an account of their distressed Condition. *Romanus* the *Comes*, the Council being publick, could not but have notice of the Message designed, and he sent away in Post to *Remigius*, the *Magister Officiorum*, his Cousin (by Craft as well as Kindred) to desire that he would persuade the Emperor to refer the business to the *Vicar* of *Africk* and himself. The Messengers presented their Petition, and offered to prove the Contents thereof, which *Remigius* in behalf of his Friend denied. And the Emperor not knowing which Party to believe, the whole matter

And by his Interest in Remigius at Court their Petition comes to nothing.

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was put off to consideration and a further hearing; as is usual in Courts, where there is an hurry of business.

66. But, while the distressed People of *Tripolis* expected Relief from Court, the Barbarians encouraged by the same Motives as put them out of heart, came down again, and made miserable waste in all the Tract belonging to *Leptis*, and *Oea*, a City placed betwixt it and *Sabratra*, from which three the Province of *Tripolis* had its Name. They killed several *Decuriones*, and amongst others *Rusticius*, who had born the Dignity of Priesthood, and *Nicæus* an eminent *Advocate*; and no way could there be found of Resistance, because the Charge of the *Militia*, which at the prayers of the Messengers had been committed to *Ruricius* the Prefident, was lately transferred to *Romanus*. The noise of this Devastation flew as far as the Emperor into *Gall*, and so startled him, that he sent away *Palladius* a Tribune and Notary, both to pay the Army of *Africk* their Arrears, and to bring him a true Information concerning the state of *Tripolis*. But still the *Asturianis*, as ravenous Creatures which had got a taste of Blood, encouraged by all these Delays, renewed their Incursions, and killing those that could not by flight avoid them, plundered and burnt as formerly; and neither would leave standing any Vines nor other Trees. *Mychon*, a Citizen of principal note, was caught near the Town, and made his Escape before he was bound; but to hide himself he fell down into a Pit, and breaking one of his Ribs was taken up again by the Barbarians, and led to the Gates, where he was ransomed by his Wife, and being drawn up by a Cord to the top of the Wall, died of his Bruise after two days. Grown full more and more insolent upon the liberty they had got to do what they listed, they attacked *Leptis*, and for eight days together continued their Siege; but having some of their number wounded, without any effect they went away something discouraged. The Townsmen at their wits end, and not hearing what was become of their former Messengers, sent now other two, *Jovinus* and *Pancratius*, to inform the Emperor of what they had both seen and suffered, who coming to *Carthage*, and there finding *Severus* and *Flaccianus*, understood from them that their business was referred to the *Vicar* and the *Comes*: And *Severus* died presently after, but the other hastened to the Court with as great Journeies as possibly they could make.

The Barbarians attempt
Leptis, but in vain.Villanous Practices betwixt
Romanus and
Palladius.

67. But *Romanus* having heard of the coming of *Palladius* the Tribune and Notary, whom (as we said) the Emperor sent with the Souldiers Pay, and to give him Intelligence how matters stood in *Africk*, to secure himself dealt privately with the Principals of the Army, that the greatest share of what he brought should be given to him, which he readily enough accepted, and went on his way to *Leptis*. There he received the miserable Complaints of the Inhabitants, and by *Erechthius* and *Aristomenes* (the chief of the Town) was conducted to see the lamentable Desolations of the Country, which having beheld he reviled *Romanus*, and threatened fully to inform the Emperor how matters had gone, who thereupon in great fear and wrath affirmed, that he also would turn Informer, and certify the Prince how he being sent as a Notary of approved Fidelity, had converted the greatest share of the Souldiers Donative to his own private use; whereupon the Notary being frightened, agreed with *Romanus* to conceal all from *Valentinian*, whom at his Return he falsly informed, that they had complained without just cause. Hereupon was he sent back with *Jovinus*, the only Messenger left of the two, for *Pancratius* was dead at *Trier*, that together with the *Vicar* he might hear the Case of the *Tripolitans*; and *Valentinian* ordered, that *Erechthius* and *Aristomenes* should have their Tongues cut out of their Heads, for having used too free Discourse, as *Palladius* had informed. The Notary came back to *Tripolis* in order to the Affair with the *Vicar*, which *Romanus* understanding, sent his own Domestick, and *Cecilius* his Counsellour born in the Province, who so wrought upon the Townsmen either by cheating Language or Bribes, (it's uncertain whether) that they utterly denied they had given order to *Jovinus* to say any such thing as he had done to the Emperor; by which the man affrighted, to save his Life as he thought, yielded and said he had lied to him. *Valentinian* hearing thus much from *Palladius* at his Return, and being naturally inclined to Severity, commanded *Jovinus* as principal Contriver, and three others as Accessaries to Falshood, as also *Ruricius* the Prefident as a Liar, to be put to death. *Ruricius*, who in his Relation was accused also to have used some biting Expressions, was executed at *Sistis*, and the other at *Utica*, by Sentence of *Crescens* the *Vicar*. *Flaccianus* having hardly escaped the Fury of the Souldiers, when he was heard by the *Vicar* and *Comes*, who cried out that the *Tripolitans* might thank themselves for not being at relief relieved, was thrown into prison, and made his Escape to *Rome*, where he died.

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68. So continued miserable *Tripolis* under its cruel Oppressions, both from Foreign and Domestick Enemies; though Justice it self, which seemed to bewail its Condition, kept its Eternal Eye (as our Author words it) still waking, and the Blood of the Messengers and the President continued their cries for Revenge, which long after came to pass, according to the usual Saying, that *Murder will out at last*: For when *Palladius* was dimitted from his Attendance, and destitute of his former Supports of Pride and Confidence, was retired to a Private Life, and *Theodosius* was come into *Africa* to suppress *Firmus*, who was there attempting to set up for Sovereign; as he was taking a view of *Romans* his Moveables, which he was ordered to do, he found a Letter amongst his Papers of one *Mete-rius* with this Inscription, *To his Lord and Patron Romans*; and after several other matters nothing to the purpose these words were added, *Palladius the forlorn salutes you, who saith he is dimissed for no other cause, than for having lied to the Emperor in the cause of the Tripolitans*. The Letter was sent to Court, and *Mete-rius* with all speed apprehended, who confessed he wrote it, and thereupon *Palladius* was also sent for, who considering of how great a Villany he was guilty, escaped his Keepers by night, as they were celebrating a Christian Vigil, and hanged himself. Encouraged at the Report hereof *Erethius* and *Aristomenes*, who for fear of having their Tongues cut out had escaped and hid themselves, came forth, and gave an account of the whole matter to *Gratian*, who (*Valentinian* being now dead) referred them to *Hesperius* the *Proconsul*, (the Son of *Augustinus* his School-master) and *Flavianus* the Vicar, who afterward sided with *Eugenius* the Usurper. They heard the matter with all indifference, and subjecting *Cecilius* to Torture, he confessed how by his Arts the Citizens were persuaded to belie their Messengers; and *Remigius* afterward died by the Halter, as may be shewn in its proper place. This story so eminent for the Variety, acquaints us with the corrupt Inclinations of the great ones of those days; and how careful Princes, who see by other mens Eyes, and hear by their Ears, ought to be, especially in matters relating nearly to the Safety of their People, and to Blood: So miserably was *Valentinian* gulled through the Treachery of those about him, that by the Tricks of *Romans*, and the false Suggestions of his *Magister Officiorum*, this very year he seems to have made an ill-grounded Law upon this very occasion: For, there is extant an Edict directed to *Claudius* the *Proconsul* of *Africa*, on the second of February, in the Consulship of *Valentinianus nobilissimus puer* and of *Vitor*, whereby it is ordained, That if any Messengers come to Court with improbable or superfluous Requests, that at their own charge they be sent back with their own Horses or Carriage-Beasts. For, as we have before observed, the Messengers of the Province were allowed the use of the *Cursus publicus*, and Princes ever pretended to have their Ears open, by free Access to their Complaints. To prevent all idle Addressses, *Valentinian* by other Laws had formerly taken care, as having the Decrees they brought with them first entered amongst the Records of the ordinary Judges of Provinces then, examined, and reported to the Prince by the *Præfatus Pretoris*. But this further Severity with all probability proceeded from the Arts of the Persons lately mentioned, and their possiding of him with Prejudice against the Messengers from the *Tripolitans*, the Edict being directed to the *Proconsul* of that Province.

69. But while they of *Tripolis* would gladly have tilled their Lands and could not, or reaped the Fruits of their own Labours, there were some in *Gall* who might have done both the one and the other, and would not, as appears by an Edict directed to *Jovinus*, who was now *Magister Militum* in that Countrey: By this he encourages the *Veterani*, or old Souldiers dimissed, to till and improve the Lands of suchas were absent and neglected them, assuring them they should enjoy the Profits of their Labours, or the Fruits of their own Improvement, without any Rent or Allowance made to the Owners, from whom the Law doth not take away the Inheritance or Dominion of the Grounds themselves. Two days after the Date of this Law he directed another to *Olybrius* the *Præfatus* of the City, for Explanation of an Edict made by *Constantine* the Great, (to whom he gives the Title of his Divine Parent) in favour of the Daughters of such as had been nominated to the *Prætorship*, and died before the setting forth of their Games, that they should be executed from any Charge, if so be they had no Brothers. Indeed if such a Candidate for the *Prætorship* left any Sons, there was no doubt but receiving their Fathers Inheritance therewith, they were obnoxious to this Charge of the Games; although generally the Law favoured the Children of such as being only named to a Place,

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L. 6. de Legatis
& Decretis
de. cod. Tit.
12. tit. 12.L. 1. de Testa-
mentis. cod. Tit.
6. tit. 20.L. 17. de Pra-
toribus. cod. Tit.
15. tit. 4.

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Other Laws
he makes for
Incorpora-
tion of Leu-
ted Men.

As Physicians.

died before they came to Execute the Office; but here remained a question, whether in case both Sons and Daughters were left Heirs together, the burthen should depend upon the Daughters too, according to their share in the Inheritance; which *Valentinian*, by this Constitution, determines against the Women, contrary to the general Rule of Law, that those who should not have the Advantage or Honour of a thing, should not be Subject to the Burthen or Inconvenience; for Sons might execute and enjoy the Honour and Dignity of the *Prætorship*, but Daughters could not. But such was the Burthen of this Office, that he thought fit thus to order it, and Ordain the same to be practised in other Services of this Nature. But to the famous *Olybrius*, at this very time, he directed other Edicts of greater Consequence, for; the Incouragement and Advancement of Learning, and the Liberal Professions in that City. We mentioned a Law made by him two years before, Incribed to *Prætextatus* the Predecessor of *Olybrius* for Regulating and Incouraging the *Archiat-ri*, or Ordinary Physicians of *Rome*. This now by another he Confirms, both as to the Maintenance, number, and Election of them; but requires greater Caution in the supply of every Vacancy, in three respects. For, whereas by the former he required the Election to be made by all the Number; by this he will have it perfected by the Consent or Votes of the Major part, as is more agreeable to Law; and the Custom of all Corporations, or Societies. And whereas in that to *Prætextatus* he had said only in general, that another was to be Chosen into the Place of the deceased, thence a Question arose, whether if a Senior died, his Successor should not Succeed in his Seniority; which now he Determines in the Negative, ordering him that came in last to take the last or inferior place, the Course generally used; although a Question happened some years after concerning one *John*, who being a *Palatine*, or the Emperours Physician, challenged the place next to the Chief or President, and some were of Opinion, that he ought to have such Seniority as he might have had, had he been Elected at such time as he was entertained in the Prince his Service; but it was determined against him. In the last place is observable that this Law doth not require, as did the former, that the Prince should be consulted upon the supply of a vacant place.

70. This Law seems but a part of one large Constitution made now as we said, for the Incouragement of Learned men, whereof another relates to the Liberal Studies of *Rome* in general, and a third to *Advocates*. That concerning Liberal Studies is still extant in the Code of *Theodosius*, thought not transcribed into that of *Justinian*, because relating to those times, and contains several Academical Statutes for Regulating the manners and Conversation of such as Studied at *Rome*; and the time allotted to them. For in this Age whereof we write, *Rome* was a famous University, abounding with most excellent Professors, to hear whom the Youth flocked from all Parts, especially out of *Africa*, although that Country had been formerly the Nurse of Lawyers, and thence particularly at *Carthage*, were Schools wherein the Liberal Arts were Professed. But to *Rome* they came chiefly for obtaining the knowledge of the Law, and of Eloquence, which were taught here for a long time after, even in the days of the *Gothick* Kings. But great was also the Corruption of Manners in this City, as *Ammianus Marcellinus* largely complains in this very Age; scandalous was it grown by constant Revellings, and Drunkenness, Gaming, Whoring, and perpetual running to the Theatres. Therefore it highly concerned *Valentinian*, for the Publick good, to provide as much as might be, that the Youth that came thither to Study, might not be corrupted in so flexible an Age, and a place of so ill Example; and this he did by several Orders or Rules, than which for accomplishing such an End, nothing can be more exact. The first, that when they came, they should bring with them Letters Dimissory and Testimonial from the Judges or Governours of the Provinces where they lived; wherein should be expressed what was their Country, where they were born, and the Quality of their Parents. In the next place, when they arrived they should produce these Letters, before the *Magister Censuræ*, whose duty it was, as also of his Officers or *Censuales*, amongst other things to see good order kept; and especially that Strangers demeaned themselves soberly and as became them. Then were they (doublets before this *Magister*) to declare what they would Study; or make Profession of, whether of *Greek* or *Roman* Eloquence, Law, Philosophy, or the like; and to undertake a kind of Matriculation at present practised in Modern Universities. But besides this, the *Censuales* were to know where they lodged, that it might not be in any suspicious Place, or where they might be diverted from their Studies. And they were further to take care that they kept no bad company, nor were present at any unlawful or dangerous Meetings.

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L. 6. de Mili-
tis & Praefectis
bus. cod. Tit. 6.
L. 51. qui in
Archiat. cod.
Tit. 11. tit.
11. tit.L. 1. de Studiis
liberalibus ar-
tis. Rome. cod.
Tit. 14. tit.He regulates
the manners
of the Stu-
dents of the
Liberal Arts.Valentinian
explains a
Law of Co-
suetudine
the Greek, which
is made in
favour of Wo-
men.

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71. It was one of the Crimes of this Age and City, that the Theatres were too much haunted, and as *Ammianus* tells us, *Olybrius* the *Præfess* himself, to whom this Law is directed, was guilty of the same fault; therefore as it was a blemish to all that Studied, or were employed in grave serious Matters, as Ecclesiasticks, Judges, and Souldiers, to frequent the *ſpectacula*; ſo as pernicious to Learning, he forbids it here to his Scholars; and moreover all unseasonable Feasting, which either by their length, or the time wherein they were used, would hinder them from their Studies, and create in them ill Habits. If these Rules and Cautions would not prevail, in such a Case the Student that demeaned himself unworthily, was publicly to be beaten, or whipped, expelled the City, and being put on Ship-board, carried back into *Africa*, if that was his Country; which though severe, yet was esteemed no more than requisite, to restrain the Corrupt Humour of the Times. After this he prescribes the time they were there to Study, which he Limits to the twentieth year of their Age; for this was the usual period of Studies: a Boy from the twelfth year to the fourteenth, being supposed to Study Grammar and Geometry, and afterwards in the University, Rhetoric, Philosophy, Mathematics, and the Law; for they Learnt in those days the two Languages with ease in their Infancy, which we now toil at a long time; and yet *Dioclesian* formerly permitted the Youth of *Arabia*, to Study in the University of *Berytus*, till the twenty fifth year of their Age, a longer space he would not permit them to avoid the Employments of their Countries. In the tenth place, he orders the *Præfess* of the City, to admonish the *Censuales*, to whom the Charge of these Scholars did belong, every Month to exhibit a Catalogue, and Account of them, as what they were, and whence they came, and who were to be sent back into *Africa*, or other Provinces, their term being already expired; except they were such as belonged to any Body, Company, or Society in *Rome*, which enjoyed this amongst many other Privileges, that their Students could not be forced to quit the place. The last Rule is, that the Catalogues, or Accounts of what Students were in *Rome*, and what were ready to depart, should every year be sent up to the Prince himself, that He finding out the Merits and Qualifications of each, might make use of them for Publick Service, as he saw convenient. So did a Lady that Reigned here in *England*, in the last Century, require every three years an Account from the Chancellors of the two Universities, of what eminent scholars there were in every Profession, whom as she had occasion the noted down, and marked for Employment, to send them abroad, or prefer them at home, as their Inclinations and her Service required. This is the second Branch of the large Constitution whereof we spake. The last commands Judges, that in hearing of Causes they assign Council to the Parties as indifferently as may be, that so neither the most knowing, nor most ignorant, may be all on one side. If any Advocate should deny his Assistance to any party, after the Judge his Assignment, he should lose his place without any Hope of Retitution; and if any of the Parties had procured a Combination of Advocates against his Adversary; so as to deprive him of equal Defence, he should be esteemed as one who by indirect Courses went about to Bolster up an unjust and rotting Cause.

A.D.
370.Gives order
about Affig-
nationes of Ad-
vocates.Miners Com-
manded to re-
turn into
Thrace.

72. About this time *Valens* in the East found his Revenue impaired, by the neglect of those that wrought in his Mines of *Thrace*, who, it seems, not enduring the burthen imposed upon them, ran away from their work. He had sent Orders through his own District, that wherever they should be found, the owners of the Grounds in which they now employed themselves, should send them back; and whereas many of them had betaken themselves into the Neighbouring Countries of *Illyricum* and *Macedonia*, he had prayed Assistance of his Brother, to drive them thence. This *Valentinian* endeavoured by an Edict directed on the nineteenth of March to *Probus Præfessus Pretorio*, Remarkable for other hints it affords, besides the main business intended by it. Therein he gives the Title of *Dominus* to *Valens*, though his younger Brother, and one Advanced by himself. From this Law it is evident, that *Illyricum* and the *Diocesis of Macedonia*, in the Division of the Empire, belonged to him. And hereby we see that *Illyricum* and *Macedonia* were at this time under the Disposition of *Probus*, as also *Italy* and *Africa*, as appears by other Laws. We may also observe that, at this time *Macedonia* was distinct from *Illyricum*, as in the Breviary of *Festus Rufus*, which (the year preceding this) he dedicated to the Emperor *Valens*; though in its general Name *Illyricum* also included *Macedonia*; and *Macedonia* and *Dacia* (these two *Diocesis*) afterwards constituted the *Præfecthip* of the Eastern *Illyricum*; at what time *Illyricum* was divided, and the

L. 7. de poffe-
lenda. Cod.
ſuſ. lib. 2. c.
6.L. 7. de Mat-
ria Cod. lib.
10. tit. 15.

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Western belonged to the Western Empire, though now when this Law was made, both Western and Eastern, as far as *Thrace*, appertained to the share of *Valentinian*. Hence comes it that *Ammianus* makes mention but of three *Præfess* *Pretorio*, under these two Princes, and signifies *Epirus* to have also been Subject to this *Probus*, which certainly afterward belonged to the Eastern *Illyricum*. But *Valentinian* was willing enough to Comply with his Brother, as in other matters so especially where any Rigour or Severity could be shewed, to which he was very much inclined, as not only Historians testify, but may sufficiently appear from the Laws. He had the year before published a Constitution against such as should usurp the Right of the *Panis Gradilis*, or the Bread belonging to the poor Citizens of *Rome*; but the Penalty he thought was not sharp enough, as depriving only the Masters of Slaves, *Officials* and *Apparitors*, of the use thereof. But now, by the Infatigation, as we may easily guess, of *Maximinus* or *Maximus*, that cruel Blood-Sucker, lately mentioned, who at this time bore the Office of *Præfessus Annonæ*, he directed another Edict to him, which bears date on the same day, as that concerning Miners; and discovers the Disposition of both Prince and Officer. Notice was taken that the Agents and Slaves of Senators, and others intruded themselves amongst the poor, and under the Vizard of such, by Favour or Connivance of the Scribe belonging to the *Præfess* (who was to keep an Account or Catalogue of the Persons concerned) were admitted to the Allowance; such Agents or Servants as should do so, he Commands to be put to the Rack, to know whether they did it without, or with the Consent and knowledge of their Lords. If without, he Commands them to serve in Chains, in the Bake-House they had so defrauded. If their Lords were privy and Consenting, He Confiscates their Houses; though a very severe thing it was indeed, that Slaves should be examined by torture against their Masters. As for others who without Right or Title had flared in the Allowance, if they had Estates, both them and their Estates he Commands to be annexed to the Body, or Company of the Bakers; and if poor, to serve in the House with manual Labour. And as for the Scribe, if it hapned through his Corruption or Favour, no less a punishment he inflicts on him than death.

A Severe Law
against such as
intruded a-
mongst the
Poor, and got
their Bread.Valentinian is
Indulgent to
Widows and
Orphans.As also to
Physicians
and Professi-
on.

73. More favourable he was to Widows, and Orphans, at this time, whom he Exempted from Impositions usually laid upon *Plebeians*, besides such as entered into Religion, of which we are to speak in another place. As great favour he extended to the Physicians, and Professors of the City of *Rome*, to whom as also to their Wives he grants Immunity from all Publick Services, and Burthens, and namely, from the finding of Souldiers; for, having as well as other Citizens Estates in the Provinces, upon occasion of the War with the *Allemans*, they might be called on to set out their Men, as also to afford quarter, as well as their Neighbours, from which Burthen he also declares them free, to the great Inconvenience of Learning. Several other Laws he made also at this time, for the better Regulating of Corporations, as that no Promotions *per saltum* should be permitted any therein, but to be nulled by the Governour of the Province, without any power left in the Court of the Corporation it self therein to intermeddle. And, whereas those that were Merchants, and paid the usual Impost upon Wares called *Lustralis Collatio*, in case they Purchased Lands belonging to a Corporation, because of the said Impost, thought themselves freed from all Burthens lying upon the Possessors of such Lands, he declares on the contrary, that by reason of the said Lands, they shall be obnoxious to all the Duties relating to the Corporation. Nay further, it appearing upon Complaint, that several Persons in *Africa*, with Design to evade the said Duties, had aspired after the Senatorial Dignity, he Commands that they be forced back to them, except they had been made Governours of Provinces (which yet afterwards he would not allow them to be, except they had passed through all the Employments of the *Curia*) or except they had served in the Palace; for such having discharged all Duties there, might be of the Senatorial Rank, and were freed from these Burthens; or Lastly, except such an one had passed the Services of the Field, or after finishing his Military Course, arrived at that Quality. Now there were so many of the *Gentiles*, as this Age called them, or such as were defended of the Barbarous Nations, which were no Members of the Empire, spread abroad both in the Armies, and elsewhere, that they gave cause of Jealousie, lest they should Attempt something against the Publick Safety; to prevent which, by a very severe Law, he forbids Marriage with them, to all Persons of what Condition soever, and that under no less a Penalty, than death it self. Hereby he may seem to have been fen-

L. 5. de An-
nis Civici.
Cod. Th.L. 5. de Censu.
Cod. Th. lib. 13.
tit. 10.L. 10. de Medi-
cis Professi-
on. Cod. Th. lib. 13.
tit. 3.L. 7. de 7293.
de Decurati-
onibus.L. Unica de
Nuptiis Genti-
lium Cod. Th.
lib. 3. tit. 14.

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Sect. 2.

fible of those Mischief, that followed upon Preferment of those men, who not easily being commanded, but commanding Armies, they had great opportunity to involve the Empire in Troubles, which they vigorously improved. For, this Law of *Valentinian* was afterward so far null'd, that by Rescript of the Prince Licence was indulged to make such Marriages; and *Ammianus* complains, that in his time the Commanders of those *Gentiles* (of which there were Numbers or Regiments in the Army) were not *Romans*, but of the same original with their Soldiers. They conquered the Provinces by degrees, and in *Justinian's* time had so far embodied themselves with the People, that this Law, to which the temper of the times would by no means submit, was (as antiquated) by *Trithemius* omitted to be put into his Code. It was directed to *Theodosius* with the Character of *Magister Equitum*, wherein he had succeeded *Jovianus* at his Return out of Britain.

74. But we may return for some time into the East, when the Winter of this year was over, *Sapor King of Persia* having sufficiently provided himself, sent an Army which brake into the *Roman Territories*. Against it was oppos'd *Trajan* a Count and *Vadomarins*, who had been a King of the *Allemans*, with a considerable Force, but with Orders rather to make a Defensive than an Offensive War. They govern'd themselves according to their Instructions, declining an Engagement as much as possible, that they might not be reputed Breakers of the Peace, but by necessity were forced to make use of their Arms, and thereby obtained the Victory. Yet was it not so great, but the Enemy still kept the Field, and several Skirmishes afterward happened with various success, wherewith the Summer was spent, and then a Truce was made by consent of both Parties. Though these two Captains were (as we have it from *Ammianus*) employ'd against the *Persians* & yet *Zosimus* tells us, that *Valens* himself mov'd Eastward, but by slow Journeys, being employ'd as he went along in hearing the Meddles and Complaints of the Cities, which he gratified by granting all just things they desired; that when he came to *Antioch* he order'd his matters relating to the War with good caution; that having wintered in that City, when the Spring would permit his March, he remov'd to *Hierapolis*, whence leading his Army against the Enemy, upon the approach of Winter he return'd again to the same Quarters. Now that he march'd into the Eastern parts appears sufficiently from the Dates of several Laws, which also in Winter fix him at *Constantinople*, whatever *Zosimus* writes of *Antioch*, at which City yet he might reside some time during his Expedition. From *Constantinople* he first remov'd to *Nicomedia*, and thence to *Cyzicus*, where he settled a matter in controversy betwixt the ordinary Judges of Provinces and their Officials, or Apparitors, viz. the *Principes*, *Connicularii*, *Commentarienses*, *Adjutores*, *Numerarii*, *ab Actis*, a *Libellis*, *Excepores*, and the rest formerly mentioned. It had been a great Question whether they might appeal from their Judges whom they served, who being but Annual might impose very harsh Conditions upon them; and yet without some Awe there could be no good Government of these men, who having their Places for Life, would little regard the Menaces of that person, who they knew would be out of his Office shortly, and consequently out of capacity to punish their Misdemeanours. *Valens* therefore took a middle course, declaring that in Civil matters Appeal should lie, but not in Criminal Causes; for if they neglected their Duty, and their Magistrate whom they served had no power of Punishment, how precarious must his Employment necessarily be?

75. From *Cyzicus* he remov'd to *Cæsarea* in *Cappadocia*, thence to *Antioch*, and his next Stage was at *Hierapolis*, where he created several Laws! The first of them is that famous one, whereby he restor'd to the City of *Constantinople* the old Privilege call'd *Jus Italicum*, of which we have already spoken upon occasion of the founding of that City. Being now intent upon the War for the filling up of his Troops, he issued out an Edict to *Modestus* the *Præfatus Pretorio* of the East: Therein for encouragement to *Tirones* or new Soldiers, and they that set them forth, he declares, That as soon as they were list'd in the Army, if formerly subject to the *Census* or Tax, they should thereupon be discharged *ipso facto*, and their Wives also after they had served five years; *Provided they had brought them home to their own houses*: For although Marriage by the *Roman Law* was accomplished by the consent and affection of the Parties; yet so far as was there was to be some evident sign and declaration thereof, most commonly the leading or conveying of the Woman to the Mans House was taken as concluding, and in some cases it was necessarily required; sufficient Proof being otherwise wanting, and for prevention of Fraudulent Practices, it being casie to pretend Affection and Con-

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Ammian. l. 29.

L. 477. 747.

L. 17. quædam
appellationes
non recipi. Cod.
Tud. l. 1. tit. 13.L. 2. de Italia
jure italicæ
hærentiæ. Cod.
Tud. l. 1. tit. 13.L. 2. de Tironi-
bus. Cod. Tu.
l. 7. tit. 13.L. 2. de præfati
Tironi-
bus. Cod.A Truce made
with the Persi-
ans.Valens will
not have the
Officers be-
longing to
various of
Provinces ap-
peal from
them in Cri-
minal Causes.Quædam
Reges
about Tironi-
bus or young
Soldiers.

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Consent. As for the publick Benediction of Marriage in the Church by the hands of Priests, it was not as yet introduced by any publick Law. In the second place he declares what sort of men shall be preferred for *Tirones*, not any Stragler or old Souldier, but one born and brought up in the Province, one subject to the *Census*, or one of those they call'd *Adreſcentes* or *Supernumeraries*; for as both in the Field and in the Palace there were those that were in actual Service, and those who were near unto it, kept as Probationers from amongst whom Vacancies were supplied; so in like manner in the Provinces, some were actually inrolled in the Cests Books, and there were others who were to succeed them upon occasion. Lastly, he prescribes the manner of filling up his Troops to be first out of the *Adreſcentes* of the Army, and if supply sufficient could not be had thence, out of the *Tirones*, or those newly raised or to be raised for this purpose, or else out of the *Censiti*, or such as were caſt, to whom recourse should be had in the last place, left the publick Revenue might be lessened by freeing so many that were obnoxious to the ordinary Tax.

76. The Truce being made betwixt the Empire and *Persia*, that King return'd to *Ctesiphon*, there to winter; and the Emperor came back to *Antioch*, where being out of danger of any Foreign Enemy, he was not altogether so secure from domestick Treason. There was one *Procopius* a turbulent and restless Man, who accus'd *Anatolius* and *Spudastus*, two of the Emperours Servants in the Revenue, of conspiring against the Life of *Fortunianus* the Comes rei private, a troublesome exacting person in his Office: He brings the matter before *Modestus* the *Præfatus Pretorio*, who had succeeded *Auximius*, and procures one *Palladius*, an obscure Fellow, as a Sorcerer hired by them, and *Heliodorus* a Caster of Nativities; to be put to the Rack. *Palladius* to avoid the Torture cried out, That these were slight matters, and not worth the while in comparison of some other clandestine Practices, which if they proceeded would put all things into confusion; and being encouraged to make the Discovery, that one *Fidulius*, who had born the Office of President, with one *Irenæus* and *Pergamius*, had by secret and detestable Arts learnt the Name of him who was to succeed after *Valens*. *Fidulius* being contriv'd by the Accuser, confessed all, and how he with *Hilaris* and *Patritius*, two excellent Artists in Divination, had consulted about that matter, and found out, that an Excellent Prince should succeed, and they themselves come to untimely ends for their Curiosity. That when they considered who was best able to discharge the Sovereign Command, *Theodorus* seem'd best to deserve it, who had already obtained the second Degree amongst the *Notaries*; and indeed the Man was very remarkable, as defended of an ancient and noble Family in *Gall*, though born in *Stolz*, exceedingly well educated, and for his Modesty, Prudence, Humanity, and Learning, acceptable to all men both high and low, and seeming to deserve a much higher place than that he at present posses'd. *Fidulius* almost tortured to death, declared, that what he had predicted was made known to *Theodorus* from himself, by intervention of one *Eusebrius*, a person of great Learning and Quality, as having formerly govern'd *Asia* as *Vicar*. Hereupon was *Eusebrius* committed to prison, and the Emperor being acquainted with the whole story, breath'd nothing but death and horror against those that were conscious of this Practice, exasperated by the Flatteries of many about him, particularly of *Modestus*, who (to secure himself against the fears of a Successor) omitted nothing of that nature but made him believe himself a clownish and ill bred man, though he was as quaint in his Expressions as ever was *Cicero*, and that the Stars at his beck would descend into his lap. Now was *Theodorus* apprehended at *Constantinople*, whether he was gone upon some private business; and from the most remote parts many were haled upon Eminent for their Nobility and Employments; the Emperor and his Ministers giving themselves rest neither day nor night from bloody Inquisitions. The publick Prisons could not contain the Multitudes they endeavour'd to crowd into them, neither were private Houses enough found fit for their receipt. And now *Theodorus* being detain'd prisoner in a remote quarter of the Territory the Trumpets began to sound (as *Ammianus* phrase't it) to Blood and Slaughters.

77. But he adds, that as an Historian, who knowingly omits what had been really done, is as much to blame as he that feigns what was never done: So he must not deny, neither could it be doubted, but that the Life of *Valens* was often endangered by secret Conspiracies of some Military Men, whom he had purposed to expose to imminent perils in Thrace. As he took his rest once in the Park betwixt *Antioch* and *Selencia*, he narrowly escap'd being murdered by *Salustius* one of the *Sentarii*.

L. 12

To

Qui dum isti
moratur, secu-
ra interitus bo-
rum extorrem-
ram, justissimè
postulat
fructibus, etc.
Ant. l. 29.Certain per-
sons by Magi-
cal Arts en-
deavour to
know who
shall succeed
Valens.Whereupon
he breaths no-
thing but
Torture and
Death.

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To which we may add, that *Zotinus* accuseth this *Theodorus* of Ambition and Tampering about his future imaginary Preferment. Therefore *Ammianus* concludes, that he had reason to defend himself by all means to which Prudence could direct; but in this he could never be excused, that in the heat of his Pride and Anger he made no distinction betwixt the innocent and the guilty; but while there was reason to doubt of the Crime, he was fully resolved as to the Punishment; and to those miserable people word was brought, that they were condemned before they thought themselves suspected: So resolute was he in his bloody humour, which was extimulated by his own Avarice, and of those about him, that if there were but any shew of Moderation, they branded it as Dulness, and procured the Ruine of many wealthy Families. To those Parasites he gave constant Access, but was not to be come at by others of more confectionable Principles, and was most angry in a case wherein he should have been most void of passion; and therefore what they whispered he presently concluded and took all for granted, his Pride not permitting him any sober Inquiry. Hence it came to pass under shew of Mercy that many were sent into Banishment, and their Estates being confiscated, for'd all their Lives after to beg their bread.

78. The *Præfett* and those *Summates*, to whom, with him, the Cognizance of the Crime was committed, being convened, the Racks, the Plummetts, the Cords, and Rods, were brought forth, and amongst the rattlings of Chains and Fetters, the noise of Hold him, Bind him, and Away with him, was heard, which the Sergeants echoed one to another. After a little Prelude to the Tragedy, *Pergamus*, whom (as we said) *Palladius* accused, when the Judges knew not well in what method to proceed, in a large Discourse accused many thousands as Accessory, and required several to be sent for from the utmost bounds of the Empire. But it being impossible to prosecute according to his Allegations, he was put to death, and many in Companies after him; which done, the main part of *Theodorus* came upon the stage. On the same day it happened, that one *Salva*, who was *Comes Thefaurorum* in *Thrace* a little before, and had been cast into prison, being to be brought forth to his Examination, as he was putting on his Shoes, out of a sense of the great Tryal he was now to undergo, became stupified and fell down dead amongst those that had their Hands upon him. *Patricius* and *Hilarius*, when they were produced, differed in their Relations, and for that had their sides sufficiently lanced with Stripes: and the *Tripes* or three footed Engine they used, was produced before them, whereby brought to the utmost extremity, they confessed the whole matter. *Hilarius* first acknowledged, that in resemblance of that at *Delphi*, they framed the *Tripes* of Laurel Twigs; that by Imprecations of secret Verbes, and by many and daily Dances being ritually consecrated, they moved it; the manner of which Motion, when it was to be consulted upon any secret Affair, was this: It was placed in the middle of an House, which was throughout perfumed with *Arabian* Odours, and thereon was neatly set a Charger, every way round and made of divers Metalls. In the utmost Ring or Compass thereof were engraven skillfully the four and twenty Letters, set at a distance from each other, so that certain Spaces betwixt them were precisely set out: Then one arrayed in white Linen Vestments, having on Linen Stockings, a Wreath upon his Head, and a Branch in his Hand, having by certain formal Charms obtained the favour of that Divine Power, which was the Author and Director of Divination and Foretelling, stood above the said *Tripes*, shaking a Magical Ring hanging at a Curtain; which Ring lighting by jumps and leaps, with distant pauses between, on certain Letters one after another, which seemed to stay and hold it, made Heroick Verbes answerable to the Questions demanded, and fully composed according to Rhythmicall Numbers and Measures, like the Verbes of *Pythia*, or those of the Oracle of *Branchide*. There then as they inquired who was to succeed the present Emperour, for that it was said he should be every way an Accomplished Person, the Ring as it skipped here and there, quickly made up two Syllables with another Letter, at which one present cried out, that thereby *Theodorus* was portended; neither was there any further Inquiry made into the business, for they were very well satisfied that he was the Man. When he had laid open thus the whole matter to the Judges, he added therewithall, that *Theodorus* knew nothing of it. Then were they demanded, whether by signification of the same Oracle they foreknew what Trouble they should come to; and they replied in those most known Verbes, which declared destruction to those who should search into so sublime matters; and yet wish that the Furies threatened both the Prince himself and his Ministers with Plagues, for the avenging of their Blood. The Verbes be-

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De Branchide,
qui loco nomine
dicitur, vide
Valefi. Annot.
in p. 328.

Alli Divinationis
hujus
alium modum
narrant, qui-
dam ab aliis
qualiter non
non videntur
mentem. Vnde
concl. ibid.
Sed fides per-
is Ammiano,
qui hoc vult
tempore, ad-
hibere qd.

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ing produced and read, they were ordered to withdraw, by this time almost dead with tortures.

79. Then to clear further the evidence, were produced a great Company of the *Honorati*, in the number of whom, lay the depth of the Conspiracy; but every one endeavoured to devolve the burthen from his own shoulders, to the back of another. At length *Theodorus* was Commanded to speak, who first applied himself altogether to Intreaties, that the Inquisitors would intercede for his Pardon; but afterward being constrained to speak further to the point, professed that the Reason why he did not discover the whole Practice to the Emperour, was, for that *Eusebius*, who first disclosed the matter to him, expressly forbade him, declaring that what should come to pass, was not to be effected through the prevalence of any Ambitious Passion, but by the absolute necessity of Fate. And *Eusebius*, being tortured Confessed as much; yet however, *Theodorus* was convicted by the Evidence of his own Letters, written, though cunningly, to *Hilarius*, whereby he signified that he did not doubt of the Success, but was at a loss how to find out a convenient opportunity, to put the Design in Execution. They being set aside, *Eutropius* who then Governed *Asia* with *Proconsular* Power, and probably was Author of the Breviary of *Roman* History Dedicated to *Valens*, was accused as Accessory to the Crime, but was dismissed, after that *Pisippius* the Philosopher, though all endeavours were used, could by no torture be forced to Accuse him. But *Simonides* a young man, who professed also Philosophy, could not deny but that from *Fidusius* he had been made acquainted with their Practices, and out of a firm Resolution of mind would not reveal it. Now the whole Discovery being made, the Emperour Consulted, with one Breath Commanded that all should be put to death; which was Executed upon them, to the Horror of Multitudes that beheld the Spectacle, all having their Throats Cut, except *Simonides*, whom because of his extraordinary Resolution, he Commanded to be burnt alive. After him many of all Sorts and Conditions, like so many Sheep were Butchered, Execution being first done, and then the Merits of the Cause enquired into, so that the Hangmen were quite spent with their labours, first of Torturing, and then Killing these miserable Creatures. Nor long after, *Maximus* the Philosopher, the greatness of whose Reputation equalled his Name in those days, having Confessed that he heard what had been predicted by the Oracle, but out of Respect to his Profession, had concealed it, though he also fore-told that the Consultors would lose their lives, was brought home to the City of *Ephesus* where he was Born, and there beheaded, when he was now sick of an Incurable Dis temper; the Great Master of *Julian*, the late Emperour. Before this, to allay the Envy and Displeasure of the People, for such Carnage as was made, an infinite Number of Books were got together, and burnt in the sight of the Judges, as dangerous and Prohibited, whereas indeed they were such as Treated of various profitable Subjects, as the Liberal Sciences, or the Civil Law.

80. And together with the Books, perished a great man of Law, one *Dioegenis*, eminent for his Noble Birth, Wit, Eloquence, and mild Disposition, whose only Crime it was that he had a great Estate, having not long before governed *Bithynia*. *Alipius*, who had discharged the Office of *Vicar* here in *Britain*, was outed of his Estate, and sent into Banishment, his Son *Hierocles* having been maimed by tortures, and hardly escaped Execution. *Palladius* the Contriver of all these Villanies in the mean time purified his course; and by his Tricks brought so many into trouble, that he filled all the Provinces with Lamentations. To the end that the very Wives might not have time to bewail the miseries of their Husbands, when an Account was taken of the Household stuff of the Dead, by these Officers who did it, there were cast in, amongst the writings, some Charms or ridiculous Enchantments, which brought into Court before those Judges, who had neither Regard to Law, Religion, nor Conscience, thereupon they were seized, and as well young, as old, without any Defence made, were deprived of their Estates, and after all their limbs had been broken by torture, carried out in Chairs to Execution. Hereupon, throughout the Eastern Provinces, so great a Terror seized upon all sorts of Persons, that they burnt their Libraries, for they esteemed themselves in no better a Condition, than were the Guests of *Dionysius* the *Sicilian* Tyrant, over whose Heads, as they ate at meat, he caused Swords to be hanged by single hairs of Horfes. The great Manager of all those Intrigues, together with *Palladius*, was *Heliodorus*, a Pleader of Causes, whom they called the *Mathematician*, a dissolute insolent fellow, who prescribed to *Valens* all his Methods, and after other manifold Forgeries, at length informed a-

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Horrible
slaughters
thereupon.

gainst

Sect. 2.

guint that excellent Couple of *Consuls*, *Ensebius*, and *Hypatius*, two Brothers, and nearly Allied to the Emperor *Constantinus*, as if they aspired after the Empire; and withal he added this lie, that *Ensebius* had already provided himself of Imperial Robes. *Valens* was glad of the Occasion, and however by no means could their Innocence be overborn, it so evidently appeared; yet still did he make much of the Accuser, and they were both sent into Exile, and heavy mulcts imposed on them, which they paid; but shortly were they recalled, the money returned, and they restored to their former Dignities. Yet for all this, the Emperor would still proceed, and by many sad Instances shewed how it fares with a People, when the pride of a Sovereign Prince is joynted with fowness and ferocity of Nature.

81. *Heliodorus*, how its uncertain, chanced to die; and being to be buried, many Persons of Quality were Commanded to precede the Corpse; and amongst others the two late *Consuls*, and Brothers but now mentioned. Neither could he himself for some time, by any means be persuaded from being present, but at length being prevailed with, he Commanded the Nobility to go before (as the Custom was; not to follow, as the use is at this day) on foot, with their Heads bare, and some with their hands folded together: a fit posture for such as had been formerly Graced with Consular Ornaments, wherewith to Honour the Carcass of a Rascal, who having first come to *Corinth* to sell Fish, when it happened that the Man of the House was sick, and could not attend a Cause he had to be heard in Court, he adventured to appear for him. Having heard the Pleadings of those at the Bar, he was tickled with a great desire of becoming Advocate himself, and joining this practice to his other Trade, grew to Famous, that, as Confidence usually procures Clients more than skill, he was more employed than any man, and though laughed at, and scorned by sober and understanding Persons, yet he derided them again, and putting on such a Countenance as not to be dashed, he got great Wealth, became Advocate of the Treasury, and obtained further Preferment. Here *Amianus* cannot abstain from exclaiming, and falling very foul upon *Valens*, for exposing to many Persons of Honour to so much Contempt; and further he tells us, that one thing else there happened, that made up the Roll of his Virtues. Generally he was so savage and unmerciful, that he was unwilling that death it self should put an end to the torments of Condemned Persons; yet there being one *Pollentianus* a Tribune, a fellow of a naughty life, Convict of ripping up a Womans Belly alive, and by taking out the untimely Birth, as he words it, of Consulting therewith, the Infernal *Mares*, concerning the Change of the Imperial Government: out of respect to their acquaintance and Familiarity, though to the Regret of Men of all Ranks and Conditions, he caused this Criminal to be dismissed, both with security of his life, and enjoyment of his Estate and Preferment. But Justice still watched how, and when to Revenge the death of these Innocents, and the Furies as he saith, enraged by their death, kindled the Flames of *Bellona*. Yet in the mean time, mischiefs befell the Provinces of *Asia* upon another occasion.

The Cruelty
of Festus Pro-
consul of Asia.

82. There was one *Festus*, Born at *Trent*, a man of very mean Parentage, and a sworn Brother of that bloody *Maximinus* formerly mentioned, who, as Fate would have it, going into the *East*, first had the Government of *Syria* Committed to him, and thence was preferred to be *Magister Memoriae*, which Office having Discharged with such mildness as became him, he arrived at the high Trust and Imployment of *Proconsul* of *Asia*. All this while, when he heard of the Cruel and insufferable demeanour of *Maximinus*, he made a shew of great dislike, but when he understood how a man so underserving, merely for such Services, was Preferred to the *Profectship*, he was inflamed with a desire of Compassing the like Honour by the same means; and like to a Player, having changed his Habit, presently began to act another sort of Person, still imagining he should be *Profect* in a very short time. And so he bestirred himself, as to imitate what his Friend had done at *Rome*. A Philosopher called *Ceronius*, one of no small desert, he killed with excessive and cruel torments; for that in a Familiar Letter written by him to his own Wife, he used a form of speech which was but proverbial, and tending to cause the Reader or Hearer to give greater Attention and receive a greater Impression of what was written or said. A silly old Woman that pretended to Cure Agues by a Charm, he put to death, though she had lately Cured his own Daughter, and was sent for to it with his own Knowledge and Consent. There was an Eminent Burgess of a Town, amongst whose Papers was found the Nativity of one *Valens* Cal-

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Maximinus
made Profect
and governs
Istania.The cruel ef-
fects thereof.

Calculated; whereupon he was Examined, upon what account he had pried into the Fortune of the Emperor. He affirmed that his own Brother of that Name, was the man, and he was already dead, which, though he offered to prove, yet could he not be heard; but being before mangled with tortures, was put to death. A certain young man was observed in the Bath, to touch a Marble stone by the Fingers of both his hands, one after another, to put them to his Breast, and to say over the seven Vowels, which he imagined was a Remedy against the Pain of the Stomach; but for so doing he was judicially convicted, tortured, and then beheaded. So sad was the Condition of the *Roman* Subject in the Eastern Parts; while in the Western our Author tells us, he finds all things confused or out of order. For now was *Maximinus* (so much spoken of) become *Profect*; and by reason of his Power and Authority had opportunity of doing mischief himself, and of exciting the Emperor to Acts of Severity, who with the greatness of his Fortune too often intermingled his Licentious Will; and being naturally very cruel, when there was none other to advise him but *Maximinus*, would fall into such Fits of Passion, that not only his Countenance, but his Voice, his Colour, and his wonted manner of walking would change.

83. One of his Pages, a well-grown Youth, being appointed in Hunting to hold in a Slip a *Spartan* Hound, because he let him go sooner than the Game required, the Dog falling upon him and biting him, was beaten to death, and buried the same day. The Master of one of the Fabricks or Forges, having made him a Currate exquisitely polished, when for his Workmanship he expected a Reward, he commanded to be put to death, because it was somewhat less in weight than he ordained. *Epirates*: a Priest he commanded to be slain, because he would not discover *Ostavianus*, who had been *Proconsul* of *Asia*, and having been accused of some misdemeanour, had concealed himself in his House. *Constantianus*, one of the *Stratores*, or those that had the charge of providing Horses, for venturing to exchange some of those that was sent into *Sardinia* to make choice of, was by his command stoned to death. One *Abasius* a Charotrier, being forewarned by him to forbear something of no considerable consequence upon pain of being burnt, when found to have committed the crime, notwithstanding he had taken great pleasure in his Sports, was by his order reduced to Albes. *Africanus*, an industrious Pleader of Causes, having (as the manner was with Advocates) governed a Province, when he desired to be removed to a better Imployment, and *Theodosius* the *Magister Equitum* moved him in his behalf, his Answer was, *Go, Come, and change his Head, who desires to have his Province changed*. And so the poor man lost his Life for but endeavouring that which was commonly practised. A certain obscure Fellow accused *Claudius* and *Salust*, two Officers in the Army, who from the number of *Joviani* had been advanced to the Command of Tribune, for that when *Procopius* usurped, they had spoken kindly of him. The matter was diligently inquired into, but nothing could be made of it; which when *Valentinian* perceived, he ordered the *Magister Militum*, who had the hearing of the Cause, to banish *Claudius*, and condemn *Salust* to death, promising that when he should be led as to Execution he would send him a Reprieve; but this being done, *Salust* neither escaped death, nor was *Claudius* (or *Cladius*, as some Copies have it) freed from his Banishment till the death of the Emperor. Other matters *Amianus* lays to his charge, but the particulars are not to be made out, the Copies of his History, which now are extant, being in those places so marred and imperfect. However he tells us, he was afraid to recount all he could say, lest he should be thought out of design to search into the Vices of him, who otherwise was a good Prince, and most studious of the Publick Safety. But one thing he thinks ought not to be concealed, which was, that he kept two She Bears, that were wont to feed upon Mans Flesh; the one he called *Mica aurea*, and the other *Immacinta*, and was very careful that they should lie near his own Bedchamber, and want nothing to maintain their Fierceness. And *Immacinta*, after he had seen many Carcasses devoured by her, as one that had well deserved Liberty, he let go loose into the Woods. These are evident Proofs of the Cruelty of his Nature; yet was he most watchful and fagacious for the safety of the Empire, neither can any of his Detractors say, that he ever failed in that point.

84. Such is the Account we have from *Amianus* concerning the Cruelties of both the Brothers. That raging of *Valens* in the East upon the matter of a Successor is attributed by the generality of Writers, though with some difference of Circumstances. *Socrates* the Ecclesiastical Historian writes, That the Devil procured some that were

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Swartz bears witness as to the Cruelty of Valens upon the business of a Successor.

were given to those Arts, by Necromancy to enquire, who it was that should succeed him in the Empire: That after his manner he gave no plain and direct Answer, but one very obscure and doubtful, as that the Mans Name began with four Letters, εθδα, and that it was compounded. The Fame hereof so far spread, that it came to the Emperours Ears, who neither attributing things we call Casualties, nor referring the knowledge of things to come, nor the bestowing of Sceptres, to the Power of God, whose Providence ruleth all things; but forsaking the Precepts of Christian Religion, which he colourably pretended, put divers persons to death, who he imagined might be capable of the Imperial Dignity. He dispatched out of the way such as were called *Theodorus*, *Theodorus*, *Theodorus*, *Theodorus*, or the like; in the number of which was one *Theodorus* a Nobleman, whom he sent out of *Spain*, and commanded to be killed. Hereupon many out of fear of their Lives changed their Names, which at their Birth had been given them by their Parents. That *Valens* was very severe against Diviners, Fortune-tellers, or such as cast Nativities, we are assured by a Law made by him about this time, to the ending of which we may well enough conclude, that the Discovery lately mentioned gave occasion. It is directed to *Modestus* the *Præfess* *Prætorio*, who (as we see by *Amianus*) was employed in the Tryal of Offenders; and it seems to have been no other than the Answer to the Consultation of him and his Fellow Judges, in the matter of *Theodorus*, *Eusepius*, *Eutropius*, and *Simonides* the Philosopher, whereby the Historian tells us he commanded, that they should all be put to death. The Edit forbids the Practice of Mathematicians, by which is to be understood, the Art of Divination universal, and not as confined to Genitures. It inflicts no less than Death upon any who should be found to exercise it publicly or privately by day or by night, and as well upon the Learner as the Teacher, for this reason, because the fault of learning Prohibited matters is full as great as that of teaching. Yet the Severity of this Edit consists in the large extent of it; otherwise it was ever accounted High Treason by the *Romans*, to pry into the Nativty or Fate of the Emperour. *Tacitus* writes, that this amongst other Crimes was laid to the charge of *Lepida*, that she consulted the *Chaldeans* concerning the Family of *Cæsar*; and *Paulus* delivers for Law, that whosoever consults concerning the Safety of the Prince, or deep State-Mysteries, any Mathematicians, these they called *Arvols*, *Arvifices*, or *Vaticinators*, should die for it, together with him that gave the Answer.

Gratian the second time and *Probus* are Confess.

Other Laws attest the cruel Practices of *Maximian*.

85. The following Year, which was the CCCLXXI of our Lord, wherein *Gratian* the second time and *Probus* were Consuls, *Valentinian* spent in *Gall*, and the most part at *Triers*; *Valens* most at *Constantinople* and some part at *Ancyra*. The *Præfess* of *Rome* was *Ampelius*, who had succeeded *Olybrius*; *Modestus* was *Præfess* *Prætorio* of the East, *Probus* of *Italy*, *Illyricum*, and *Africa*; and *Viventius* of *Gall*. *Maximianus* was still the *Præfess* *Annone* and *Vicar* of the City of *Rome*; and those cruel Practices there against the Lives of Senators upon the account of Sorcery, carried on by him and his Agents, extended to this time, as may be collected from certain Laws. *Amianus* writes, that the Nobility tired out with those perpetual Inquisitions, when every man conceived his own Life in danger, sent a Message to *Valentinian*, which was carried by *Prætextatus*, who had been *Præfess* of the City, assisted by *Ventus* and *Minervius*, to intreat that Punishments might not exceed the quality of Offences, and Senators might not be exposed to Torture contrary to the Law. When the Messengers were admitted into Confistory, the Emperour (as we have seen) pretended ignorance of any such Practice, and said he was abused; till *Eupraxius* the *Questor* by his gentle way of Speech convinced him of other things. Amongst other matters whereof the Senate complained, it seems one was, that they were forbidden the use of the *Arsuspina*, and that they were generally involved in the crime of Sorcery; and they prayed for a general Act of Indulgence and Oblivion to the whole Senate. In answer to this he tells them, he cannot grant Indulgence to the whole Senate, lest he should accuse the whole; forasmuch as Indulgence takes off the Penalty, but not the Infamy of the Crime; but if it was desired for one or two Criminal Persons of that Order, it should not be denied. As for the *Arsuspina*, he denies that he reckons either that or some other ancient Rites, amongst the unlawful Magical Arts; and for this he appeals to the Laws made by him in the beginning of his Reign, of granting free Exercise of Religion to all his Subjects; neither doth he disallow of the use of the *Arsuspina*, so it were innocent. But whereas many persons of Senatorian Rank were accused as guilty of Magick, and they desired to decline the Jurisdiction of *Maximianus*, as

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L. 4. c. 15.

L. 2. de Malificiis q. Mathemat. Cod. Theod. post. 16.

Neque enim diffinitis culpa et prohibita differe quæ dicitur.

Vide Lindenbrogii Objectionem in Ammian. ad 24. p. 423.

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Gratian

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Probo Cof.

L. 2. de rebus Criminum. Cod. Theod. post. 38.

L. 2. de Malificiis q. 2. Cod. Theod. post.

L. 10. de Malificiis q. 2. Cod. Theod.

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L. 2. de Officiis Præfess. q. 2. Cod. Theod. post. 16.

we may well conjecture; he declares the *Præfess* of the City (in conformity to other Laws) to be the true and proper Judge of such persons. And in case the matter could not be decided by him, he requires that the Parties concerned, with the whole Process, be transmitted to Court to his own hearing; by which Reserve he cuts off the usual custom of Consultation in such difficult cases, and all hope of the Prisoner to escape Condemnation, if he himself was so resolved. This Edit concerning the *Præfess* of the City his being Judge, is directed to *Ampelius*, who was then *Præfess*, and of whom *Amianus* makes mention, in that *Hymetius* was heard by him, and *Maximianus* the *Vicar*, and appealing to the Emperour was referred back to the Senate, which incurred his Displeasure, by inflicting upon him no greater punishment, than that of Exile. In the last place *Valentinian* forbids *Ampelius* to send for any man out of his own Jurisdiction, or that was abroad in the Provinces, which yet the *Præfess* *Prætorio* had liberty to do.

Valentinian his Attempts upon the *Alpinus*.

86. To this *Ampelius* are directed several other Constitutions of this same year, to be taken notice of either here or in another place. *Valentinian* continued at *Triers* till about the end of *June*, and then by Subscriptions of other Laws we find him at a place called *Contionacum*, thought to have been the same with *Gentzingen*: For *Amianus* assures us, that he had a great care of the Limits of the Empire; inasmuch that if any Enemy was discovered from the Watch Towers once to stir, he was quickly apprehended. But his principal desire and aim was, either directly or by open force to get into his hands *Macrianus* King of the *Allemans*, one who exceedingly incommoded the *Roman* Affairs, as *Julian* had formerly intercepted *Vadomarius*. The place of his Abode being discovered by some Fugitives, lest making a Bridge might cause an Alarm, he passed his men over the *Rhine* by Boats, and *Severus* (who had the command of the Infantry) being sent before, when he came to the place called *Aque Mattiace*, out of just fear he should be overpowered by the numbers of the Enemy, made an Alt: The other Troops being all come up, they proceeded together, when the *Moss* was risen, and possibly might have executed the Design they were sent on, but that the Officers were no way able to keep the common Soldiers in order, but contrary to their express Command they would burn and spoil what they met in their way, and by Fire and Noise, discovered their Approach to the Kings Guards, who suspecting what was intended, put him into a Chariot, and conveyed him into a place difficult of Access amongst the Mountains. The Emperour then disappointed of his hopes, rather by default of himself nor of his Captains, but the Intemperance of his Soldiers, (which often cost the *Romans* very dear) after he had wasted the Enemies Country for fifty miles upward, returned melancholy to *Triers*. There he bore his Misfortune (to use the Comparison of our Writer) as a Lion would do whose Prey had escaped his hungry Jaws. But while the *Allemans* were yet in terror, (for they were frightened though not much hurt) he appointed *Fraomarius* to reign over the *Bucinobantes*, a People inhabiting just over against *Mentz*. But *Fraomarius* found it not worth his while, his small Kingdom being quickly overrun, (or his *Pagus*, as *Amianus* truly terms it) and therefore the Emperour sent His Majesty over into *Britain* with the Power of Tribune, over the Regiment of the *Allemans*, which at that time here flourished, both in respect of the Number of Men and their Courage. Moreover, the *Bithundus* and *Hortarius*, two principal men of the same Nation, he gave Commands, of whom *Hortarius* was by *Florentius* the *Dux* of *Germany* convicted, to have held Intelligence with *Macrianus* and others of the Barbarians, and the truth being found out by Torture, was burnt alive.

He makes a Law for the safe keeping of Prisoners.

87. Such was the Success of *Valentinian* in the Field, when he endeavoured to make those Prisoners he could not catch. We suppose his Design more prosperous which he now had, for the safe-keeping of his own Subjects when committed to Prison. From *Contionacum*, which lay somewhere betwixt *Triers* and *Mentz*, he directed an Edit to *Probus* the *Præfess* *Prætorio*, wherein he declared, that the safe Custody of Prisoners belonged to the *Commentariensis*, one of the Officials of the ordinary Judge, who had his name from writing the Commentaries, or keeping the publick Books concerning Malefactors and condemned persons, which in old time was wont to be preferred in the *Ænarium* amongst other Records. The *Optio* was principal Master of the Gaol, but under him the *Commentariensis* looked to the Prisoners, provided them Necellaries, and gave an account of their Number and the Qualities of their Persons and Crimes to the Judge upon occasion; and he had under him inconsiderable mean People, whom as we at this day call *Keepers* and *Turnkeys*, so they in those days termed them *Custodes*, and afterward *Clavicularii*.

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Sec. 2. who afterward became a Proverb for their Vileness. Sometimes the *Commentariensis* was employed to apprehend Prisoners, when tried he brought them to the Bar; and (as our Clerks of Assize) recorded all that happened at their Trial: For all which Services he had his *Adjutant* when the case required. But great Mischief was taken notice to have followed from these deputed to this charge, as Escape of Prisoners, because they judging themselves not to be principally concerned, were negligent in their business, which provoked *Valentinian* by an Edict, to require the Prisoner so escaping of the *Commentariensis* himself, and forbidding his Excuse, or laying the blame upon such obscure Fellows, and that by no less than his suffering the same Pain and Forfeiture which the Criminal himself should have undergone. But in case he was forced by some necessary occasions from his charge, he subjects the *Adjutant* or Deputy, to the same Penalty, in case a Prisoner was missing. At this time there was a Practice taken notice of in *Africa*, that much tended to the lessening of the Publick Revenue, which was, that such as had been made Heirs by the Testaments of their Relations or others, would enter upon those Lands that were good, but refuse to receive the barren or more unfruitful, because they would not pay the Tribute or Impositions due from them. To reform it, *Valentinian* by his Rescripts directed to *Crescentus* the Vicar of that Diocese, commands, that such as had by Testament left them Lands both good and bad, should either take to the whole Inheritance, or quit it all.

Reforms an
Abuse in
Africa.

And in the
unequal Mar-
riages of Wo-
men of Sena-
torian Rank.

88. He was also about this time informed, that the Nobility or Senatorian Rank at *Rome* was very much dishonoured by Clandestine Marriages; especially by the younger sort of Widows, who being emancipated or dismissed from the Power or Authority of their Fathers, were wont to be brought upon and enticed to Bargains of this nature by several persons, who made a Living of making Matches; by whom they were cheated, and joined with mean, beggarly, and every way unfit and unequal men. To prevent this for the time to come, he wrote to the Senate, and gave express order, that no Widow of a Senatorian Family, under the Age of five and twenty, although she were emancipated, should marry again without her Fathers consent first obtained, if he was living. If her Father was dead, the Approbation of her next Kindred he required, as *Severus* his Predecessor had formerly done in the Marriage of Pupils, or those who had not arrived at Puberty. But whereas it might happen, that the Humour of the Kindred might be unreasonably averse to that of the Woman, or perhaps being to succeed her in her Inheritance, in case she died without Children, they might out of design oppose her Marriage; therefore when any difference so happened betwixt her and her Kindred about her Choice, the matter should be determined by the ordinary Judge, who in case there was an Equality in Merit and Fines in the men contended for, was to determine in favour of the Widow. This was in conformity to other Laws, which, when the Mother and Kindred cannot agree about the choice of an Husband for a young Maid, refer it to the Cognizance of the ordinary Judge or Governour of the Province. As to that prevalent Objection, That the next Kindred might hinder the Marriage out of design, he ordains, That such as were to gain by her death, if she died without Children, should not intermeddle, but the matter referred to those at further distance, who had no such Expectation. But besides this Custom at *Rome*, there was another thing relating to Marriage, which about this same time he thought fit to reform: *Constantine* the Great, to work such Reformation in Manners as was suitable to the strictness of the Christian Profession, amongst other things earnestly desired to take away the use of Concubines; which that he might the more easily effect, he encouraged such as made use of them and had no lawful Wives, to change them into Wives by lawful Marriage, and making such Children as they had by them before Marriage completely Legitimate. But as he would encourage them by this Privilege to marry the Mothers, so on the other side he could not but think it Policy to deter them from living in that dissolute condition, by taking from their Natural Children (for so were they called) in case they would not marry their Mothers, certain Privileges allowed them by the Law; as that in case there was neither Legitimate Children, Father, Mother, Brother, Sister, Uncles, or other Kindred, they were allowed to inherit. This rigour now *Valentinian* thought fit to mitigate, not restoring the former Privilege in full, which he did by an Edict directed to *Ampelius Prefect* of the City, ordaining, That if so be a man had Legitimate Children, or left a Father or Mother, and had also a Concubine and Natural Children by her, he might leave them or her a twelfth part of his Estate; and in case he had none of the said Legitimate Relations, of his whole Estate divided into twelve he might leave them

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L. 17. de An-
na et Tribu-
tus, Cod. lib. 11.
tit. 11.

L. 1. de Nupti-
is, Cod. lib. 5.
tit. 3.

L. 1. de Mar-
italibus libris,
Dec. Cod. lib.
4. tit. 6. vide
tem. Grotius.

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three. This his Brother *Valens* at first did not approve of, but afterward confirmed for the sake of *Libanius* the Sophist, who having never been married, but had a Son by a Concubine, when he was now about sixty years old and like to die, was solicitous for this his Natural Son, that he might have wherewithal to live.

89. Another Law there's extant of this year, in like manner directed to this *Ampelius*, which acquaints us that the Inquisitions about Sorcery, and the Prosecution of Senators upon that account, of which too largely we have heard from *Ammianus* were not yet ceased. Whether it was upon desire of the Senate, and complaint against the Cruelties of *Maximinus*, by one Law before mentioned *Valentinian* declared the *Prefect* of the City to be the proper Judge of Senators, but still (as may be guessed) to have a reserve for his own Severity, he ordered him in case any difficulty occurred which he could not determine, not to consult him, but to send both the accused Party and his Process to the Court, as we have already recited. But with this was joyned another Rescript, by which appears the Diffimulation either of the *Prefect*, or the Emperor himself, or both. It declares, that the Senate ought to have the liberty of the *Curia publicae* whenever they have occasion of sending their Messengers to him, which he proves by Reasons drawn from the Practice both of the People of *Rome*, and of the Provincials; for if they had the Privilege of making use of it upon such occasions, much more ought the Senate to have it, the Members of which he desires only to see as his Colleagues. We find elsewhere, that they sent their Messengers to him with Complaints, to which *Ampelius* might give his Assistance by obtaining this Edict, or hereby the Emperor was desirous to cover his Rigour to them, as by the obliging term of Colleagues, it being not unusual fill for Princes to profess themselves of their Body. By the Date of this Law we find him at the later end of the Year returned again to *Triers* from his Expedition; during which we must see what was done by his Brother *Valens* in the East.

Declares that
the use of the
Curia belongs
to the Senate.

Valens in the
mean time
takes care of
his Revenue.

90. The first thing we find him employed in at *Constantinople* was about the Publick Revenue, for supply of the Rolls, when any died that was obliged to the *Curia* or Imposition. In such a case by a Constitution inscribed to *Modestus* the *Prefect* of the *Prætorio*, bearing Date on the fifteenth of *January*, he orders, that the Number be made up out of the *Adversentes*, or such as were to be next introlled, living in the same or some neighbouring Country. His pleasure is, that none but Governours of Provinces make this Supply, and for this end that the Plebeians, whom it concerned that they should not be burthened, and their *Defensores* should appear before them, and produce the Names of such as were fit to be introlled; and they were to hear all Allegations and Complaints, and determine the matter. Which was much better than to leave it to the partial Affections and Interest of the several *Defensores*, or Plebeians themselves. This was to be practised in case of Mortality; but if any had deserted their Habitations, and withdrawn themselves, then was no such supply required; but the Fugitives were to be sought for and brought back. And this it be-
hoved him to take care of, for there were several persons, whom their Dignity and Employments privileged from these Payments, amongst whom were the Sons of those that served in the Palace or *Palatini*, and such of their Slaves as they had purchased by Money gotten in the publick Service. By a second Constitution directed this year to the same *Prefect*, and from this place, appears how mean the Dignity of Senators was there at this time; and on the contrary, to how great a degree the Repute of the *Nauicularii* was advanced. Thereby he takes care for supply of the Body of these men through the East and the Diocese of *Aegypt*: For their Encouragement, he allows them for every ten thousand *Modii* of Corn they should transport freedom from the Imposition of Wine, Corn, and the like for every fifty Acres of Land, though not from that of Horses and Clothes. For the making of their Ships he will have Materials afforded by the Provincials; but the charge of repairing them must lie at their own doors. In the next place he will have transmitted to himself the Names of them all in two several Lists, whereof the one to represent those that were of the old standing, and the other of such as were newly admitted. And he gives them of the East all the Privileges which belonged to their Brethren of *Africa*, on condition that they and their Estates remained for ever obnoxious to the Charge and Office. In the last place he himself gives a List of such persons, as out of whom the choice of *Nauicularii* might be made; as first out of the Administrators and others of the *Honorati*, who had obtained this Dignity by Codicils or Letters Patents, (to whom in common, notice was wont to be given, if there happened any extraordinary occasion) those of them excepted which served in the Palace, who were

L. 22. de Curia
publica, Cod. lib.
1. tit. 8.
L. 1. de qua-
si interplevis
tribus, Cod. lib.
1. tit. 10.

L. 7. de Curia
Cod. lib. 13.
tit. 10.

L. 14. de Navi-
culariis, Cod.
lib. 1. tit. 1.
J. 1.

And indulges
the *Nauicularii*.

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not tied to this Duty. Also from amongst the *Decuriones*, and such as anciently had served in the Employment; out of the *Primipilares*; and even from amongst the Senators themselves, if any of them desired with their Estates to be joined to the Company. Yet by another Law did he provide for the Honour and Ease of the Senators of *Constantinople*, (whence these three bear Date) in discharging them from the Duties of Corporations, if they had by their Merits ascended to Places of Dignity; otherwise if they had only obtained Honorary Titles by Codicils, (against which he inveighs) he exempts them from all such Privileges, except they had got the Honorary Dignity of the greater sort of Magistrates, as far as the *Consularian*. And also taking care that Corporations might not be unferved, by another bearing Date on the thirteenth of July from *Ancyra*, to the same *Modestus*, he prohibits *Curiales* their concealing themselves in the Houses, and under the Protection of their Patrons the great men, imposing Infamy upon such as should harbour them. For there were great Abuses committed by these Patronages in all Ages, as well in that as other respects; yet still they continued from the time of *Romulus*. The first use of them we have observed out of *Dionysius Halicarnassensis*, in the History of the Foundation of *Rome*.

The Confusion of *Modestus* and *Arrian*.

Valentinian calls the Sons of the Fathers into the Field.

Firmus utters in *Africk*.

Theodosius sent against him.

91. For the Year next ensuing, which was the CCCLXXII of our Lord, and the fifteenth Indiction, *Modestus* and *Arintheus* were Consuls, *Amplius* was *Præfekt* of *Rome* till the Month of *August*, and then was succeeded by *Bapo*; *Clearchus Modestus* executed the like Office at *Constantinople*; the *Præfektus Pretorio* of the East was *Criso Anxionius*, and *Probus* still of *Italy* and the other Dioceses. *Valentinian* for the most part resided at *Triers*, and sometime at *Najscanum*, thought to be a place in the Forest of *Ardenne*; and *Valens* either at *Antioch* or *Seleucia*. *Valentinian* lying in *Gall* took care for strengthening the Northern Parts against the Attempts of the *Allemans*, *Quadi*, and *Marcomanni*, and that by several Laws. The Sons of the *Veteran* he ordered to be forced to Service, wherever they had bestowed themselves, though in the publick Offices of Cities, or those of the Governours of Provinces, only such as were obnoxious to Civil Employments, or the Duties of *Curie*, he signifies he had given order to the Illustrious *Comites*, and the *Magistri Equitum* and *Peditum*, that they should not meddle with; or if they had forced them into the Field, they were to remit them to their several Concernments. That he was justly moved to reinforce his Troops, for the carrying on of his Designs, we he was justly moved to reinforce his Troops, for the carrying on of his Designs, we shall see presently, when first we have given the Reader an account of grievous Comotions which now happened in *Africk*, because we would willingly follow the motions which now happened in *Africk*, because we would willingly follow the order which *Amianus* in his particular Narrations hath taken without breaking them off. One *Nubel*, a petit King, but the most potent in *Mauritania*, dying left behind him Sons both legitimate and begotten of Concubines, whereof one called *Zamma* being murdered by his Brother *Firmus*, this act gave original to great contention: For *Zamma* was much beloved by *Romanus* the Comes of those Quarters, who resolved to omit nothing that might conduce to a full Revenge of his Death, but very much sollicit the matter in the Emperours Court, where his Relations endeavoured to render *Firmus* every way odious to *Valentinian*. He willingly suffered all the Complaints against him to be read; but on the contrary, whatsoever his Friends alleged in his behalf was coldly received; for when they urged that his Answers might be perused, *Remigius* the *Magister Officiorum*, the Ally and Friend of *Romanus*, would affirm, that amongst so many great and to weighty Affairs of the Empire, those frivolous and superfluous matters ought not to interpose. This being made known to the *Moor*, he thereupon apprehended that his Defence being cast aside, he might be condemned as an Enemy or Contumacious Person, and so at length be surprized and slain: To prevent which if possible he revolted, and with a Diadem assumed the Title of King.

92. It was thought convenient to suppress him before he should grow too strong; and to this work was *Theodosius* appointed, with no great Force taken out of the Souldiers called *Comitatus*, bearing still the Dignity of *Magister Militum*; a Man (*Amianus* tells us) of greatest Eminency in those days, and to be compared with *Domitius Corbulo* and *Lulus*, whereof the one in the days of *Nero*, and the other under *Trajan*, were famous for many gallant Actions. Departing from *Arles* he passed the Sea, preventing all noise of his coming, and landed at a place called *Igilitanum*, belonging to that Province known by the name of *Mauritania Sitifensis*. There by accident he found *Romanus*, whom, without taxing him with any Misdemeanour, he sent away to put in order the Foreguards, and he being gone into that part of *Mauritania* called *Cajariensis*, he dispatched away *Gildo* the Brother of

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Sect. 2.

of *Firmus*, who yet continued in obedience to the *Roman*, together with one *Maximus*, to apprehend *Vincetius*, who having served as the Deputy of *Romanus*, had been Partaker with him in his Villanies and Rapines. But when all his men were come over, he halted to *Sitiffs*, and gave order that *Romanus* should be taken into custody by the *Protectors*. While he lay in the Town he was something perplexed in his thoughts what course to take for his men, that had been accustomed to cold Climates, and were now come into an hot Country, as also what way he should lead them; and he knew not well how to manage his business with the Enemy, or any way entray him, who was used to fire to and fro, and not engage but in sudden Onsets. However *Firmus* was fore dismayed at the coming of so eminent a Captain, and betook himself to Intreaties both by Messengers and Letters, craving pardon for what was past; which he would not take upon him to defend, but was driven to it by intolerable Injuries, the truth of which he would engage to make good. *Theodosius* thought fit to comply with him, and promised him pardon upon receipt of Hostages, which having declared he went to the Muster of the Forces belonging to the Diocese of *Africk* at *Panchariana*, where he had appointed the Rendezvous: There he cheered the Minds of the Souldiers by good words accommodated to the Exigency of Affairs, and then returned to *Sitiffs*, now desirous of some Action. For he had wrought a good Correspondence betwixt the Souldiers of the Diocese and those he brought over; and he had got the love of the Country by his obliging Carriage; and this thing in particular, that he would not suffer it to be burthened with the Maintenance of the Army, using this Expression, that *The Harvests and Stores of an Enemy are the Granaries of Valiant men*. But besides his Civil Demeanour, the Emperour himself at this time seemed to have courted in some measure the Military Men of this Country. For there's an Edict extant directed about this time to these *Moors* of *Sitiffs*, of whom *Amianus* so often speaks, whereby he declares, that if any one was found to have served five years in the Army, and had well demeaned himself, though his Grandfather and Father both had been *Decuriones*, yet he should be himself free from the *Nexus Curiale*, as it was termed, or Service of Corporations, but not his Children; and the diligence of twenty five years in the attendance of the Judges of Provinces, should only capacitate a man to obtain that Privilege. Reason there was indeed that *Valentinian* should please the Souldiers in so critical a time, rather than any other sort of persons; but much more there was to reconcile all Parties to him, if what *Zosimus* writes be true, that the *Moors* themselves revolted, and put the Purple upon *Firmus*, out of Impatience that they were harried by the Rapines of *Romanus*. He adds, that the Report hereof disturbing *Valentinian*, with all speed he caused certain Troops, which lay in *Pannonia* and the upper *Myisia*, to quit their Posts, and pass over into *Africk*.

He defeats two Nations of *Africk*.

93. *Theodosius* from *Sitiffs* marched to a place called *Tubusaptum*, adjoining to the Mountain *Ferratus*, and there he discovered the Treachery of *Firmus*, who thither sent to him other Messengers, but without any Hostages, as had been agreed. Refusing to hearken to what they delivered, after full deliberation he resolved to fall with speed upon the Nations of the *Tynderes* and *Masinsenses*, who were but meanly armed, and commanded by *Majizel* and *Dius*, two other Brothers of *Firmus*. He easily worsted and made great Slaughter of them; which done, he wasted the Country, and razed the Borough of *Petra*, built lately by *Salmaes* another Brother, in the Shew of a City. Encouraged by this Success, with wonderful Celerity he went and possessed himself of another considerable Town, where he caused to be laid up Plenty of Provisions, that in case he made further progress into the Inland Countries, he might have a Store much nearer at hand. In the mean time *Majizel* rallied his broken Forces, and venturing a second time to engage, received another Defeat, hardly escaping with his Life by the swiftness of his Horse; which *Firmus* hearing, and considering with himself how he had now lost two Battels, felt some Christian Bishops to intercede for him, accompanied with the Hostages he had formerly promised. The General courteously received them, especially upon promise that his Men should be supplied with Provisions, and gave them to good Answer, that the *Moor* having sent some Presents before him ventured to give him a Visit, but upon an Horse he thought might bring him off, if he liked not the Prelude of his Entertainment: Yet amazed at the Majesty of the *Roman* Empire, which appeared in the glittering of the Ensigns, and especially in the face and demeanour of *Theodosius*, he alighted from his Horse, and bowing himself near to the ground, with tears bewailed his Folly and Rashness, and begged pardon for his

Firmus comes in person and begs pardon.

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L. 10. de Cons.

Sec. 2. Offence. Because it behooved the State of Affairs that it should be so, he received him with a Kiss, as the Emperours were wont to do Governors of Provinces; and now being full of hope, he procured Necessaries to be brought to the Army, and leaving his Hostages departed, promising also to send back the Prisoners he had taken when he first revolted. And within two days he surrendered *Icolium*, together with the Military Ensigns, and other things he had taken, amongst which was a Sacerdotal Crown, for the Pagan Priests were wont to wear such Golden Ornaments. The General proceeded to a place called *Tipsa*, where the Embassadors of the *Mazices* met him, who had joined with *Firmus* in his Revolt; to whom when they begged pardon, he gave no more comfortable Answer than this, that he would make War upon them, and with that comfortable Message bid them return into their own Country.

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Hearing that
Firmus meant
deceitfully, he
marches to
secure himself
and the Army.

94. Thence marched he to *Cesarea*, a wealthy and noble City in former times, which now finding waste and desolate, he therein bestowed the First and Second Legions, to put it into order, and fence it against any fresh Attempt of the Barbarians. While yet he continued in this Town, he had so good Intelligence, as fully to discover that *Firmus* meant nothing less than Peace, and only watched for an opportunity by an unexpected Attack to destroy him and his Army, whereupon he proceeded and took up his Quarters at *Sagabari*, a Town of *Mauritania Caesariensis*, where he seized on the fourth Cohort of the *Sagittarii*, that had revolted to the Rebels, whom (to shew himself no way cruel) he only punished by depositing them to the lowest Service in the Field, (a course of Discipline we formerly observed usual with the *Romans*) and commanded them with part of the Regiment of Foot called *Constantiani* to come to *Tigavia*, (another Town of the same *Mauritania*) together with the Tribunes, of whom one had put a Wreath instead of a Diadem about the Head of *Firmus*. He animadverted upon them, as also on *Bellones* and *Pericles*, two principal men amongst the *Mazices*, whom being brought Prisoners by *Gildo* and *Maximus*, he caused to be put to death. This wholesome Severity shewn, he took and razed a Fort named *Gaionatis*, which having a strong Wall about it, was the securest Refuge of the *Moors*; and this done, he went forward to the Castle of *Tingianum*, and by way of the Mountain *Ancorarius* fell upon the *Mazices*, who were gathered together in one Body; and being indeed an hardy People, made at first a vigorous Resistance, but were overthrown and all put to the Sword, except such as cried for Quarter after they had made a Retreat, which (the time requiring it) was granted them. But for all this so great Multitudes of the *Moors* from other Quarters poured themselves down upon him, that being but three thousand five hundred strong, he thought not fit to hazard the Emperours Army against such Numbers, and therefore keeping a mean betwixt a Fight and a Flight, he gave ground, and by degrees retired. Hereat the Enemy took such heart, that they pursued and stooped up the Passages so, that all the *Romans* had been lost; but that by an happy mistake the *Moors* took some of their own Country-men for a fresh Supply come in to *Theodosius*, because they saw some *Romans* at the Head of them. Affrighted hereat they fled, and opened the Passages in such manner that his Men escaped.

Is in danger
of being de-
stroyed.

Being over-
powered by
Numbers he
breaks him-
self to escape,
and breaks
the Enemy by
delaying.

95. *Theodosius* made a safe Retreat to a place called *Muzucanum*, where perceiving on what terms the matter stood, he revived his business lay not in the Field at present, but that he must betake himself to the Arts and Stratagems of *Fabius Maximus*. He sent some that were expert in the Art of Persuasion, to draw the Neighbouring Nations into an Association, partly by good words and partly by threatenings; and herewith drew out the time in length, and broke them by delays, as *Pompey* overcame *Mithridates*. For *Firmus* sensible hereof, though he was sufficiently provided of Guards, yet quitted the Field, together with those Multitudes he had with charge and pains brought together; and taking opportunity of a still and dark night retired toward the Mountains *Capariensis*, at a great distance, and by reason of the craggy Rocks and Precipices, for the most part inaccessible. The Multitude amazed at his departure, and now without an Head, soon was scattered, by which means *Theodosius* seized upon his Camp, and when he had wasted the Country at his pleasure, set over the several parts thereof such Governors as he could trust. *Firmus* heard that he pursued him, and to escape his hands, with a few Servants made all the haste he could to be out of danger; for which purpose he cast away his most precious things he had brought along with him, that they might not hinder his Flight. But for all this the *Moors* rallied again, and

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and having possessed the Hills, took advantage of a Truce they had obtained of the General in his Return, to provide themselves of a great Supply of the neighbouring *Ethiopian*, who in such heaps rushed upon him, that he was again glad to retire, though his men struck their Bucklers against their Knees, and earnestly desired to try their Fortune with them. He went and took a Fort, where *Firmus* had bestowed the *Roman* Prisoners, whom setting at liberty, he punished those that had been the Betrayers and Keepers of them. Now he had Intelligence, that *Firmus* himself was fled into the Country of the *Isissenfes*, whither therefore he resolved to pursue him, and he demanded him, together with his Brother *Mazaca* and others, to be given up into his hands. This they stoutly refused, and not only so, but very malapertly insulted with their numerous Forces, whom yet he ventured to engage, and that with such Success, that after a total Rout, though *Firmus* escaped very difficultly, yet was his Brother *Mazaca* taken Prisoner, and so dangerously wounded, that he died as soon as he was dressed. The General also thought fit to animadvert upon the *Isissenfes*, whom he punished several ways. *Eudius* an Eminent Person amongst them, with *Flerus* his Son, and some others openly convicted to have sided with the Rebels, he caused to be burnt alive.

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96. Yet did not this so much discourage *Firmus*, but being again fore pinched by *Theodosius*, he fled unto them for succour a second time; and *Igmazen* a King of those Tracts, very rich and potent, when the *Roman* General pursued him, bore himself very high and saucily against him in his behalf. For he made so far bold as to confront him, and demand what he was, and what his business was there. He answered, That he was an Officer of *Valentinian* the Lord of the World, sent thither by him to suppress a Robber or Thief, whom except he would speedily deliver up into his hands, he should utterly perish together with the Nation he ruled. *Igmazen* yet could not forbear Reviling him; and away he went in very great wrath. The next morning betimes he presented him with the fight of near twenty thousand men in a Front, behind whom stood great numbers of Auxiliaries, and amongst them were the *Jesselenfes*, though they had promised the *Romans* a supply both of Men and Victuals. The *Romans* were a small Company in comparison of them, but encouraged by former success, took good heart, and placing their Flanks close together, fitted their Targets in the same manner one to another and therewith making a kind of Rampart, stood their ground, and defended themselves. From morning to night the Fight lasted, and when it grew towards the evening *Firmus* appeared upon a tall Courser, and with a loud voice endeavoured to persuade the *Romans* to deliver up their General, who, he affirmed, ought to be abhorred by them as a Bloody Man. And though his words upon some had no other effect than to provoke them the more to fight, yet others thereupon left the Field. Therefore when it was dark, and there was no fighting, did *Theodosius* draw off to a Castle not far distant, where he mustered his Men, and such of them as Fear and the Words of *Firmus* had caused to quit their Stations, he punished several ways, some by cutting off their right hands, and others by burning them alive. Very careful he was all the night to secure himself against the Attempts of the Enemy, of whom those who adventured to set upon the Camp, he either forced to retreat, or took them Prisoners.

97. Thence with haste he departed, and fell upon the *Jesselenfes* by such ways as they little expected, and having utterly wasted their Country, by the way of *Mauritania Caesariensis* he returned to *Sitifi*, where after great Tortures almost to death, he caused to be burnt *Caïor* and *Martinianus*, who had been great Assistants to *Romanus* in his Rapines. Not long after he turned his Arms again upon the *Isissenfes*, and at the very first made great slaughter of them, which so disordered *Igmazen* the King, who had not been wont to be beaten, that considering in what danger his Affairs stood, and into what mischief he should force them if he continued obstinate, he secretly withdrew himself out of the Army, and humbly besought *Theodosius*, that *Masilla*, a principal man amongst the *Mazices*, might come to him. By him he held Correspondence with him, and advised him by frequent Skirmishes to tire out his *Isissenfes*, so that he might more easily draw them off from the Interest of *Firmus*, to which they were very much inclined. The General observed his Directions, and by frequent Alarms so wearied them, that they ran away man by man, and *Firmus* having lurked here and there, when he considered how and whither to make his Escape, was stopped and secured by *Igmazen*. He now understood how matters had been carried by *Masilla*, and perceiving there was no hope of bet-

ter.

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Firmin driven to such straits, that he hangs himself.

ter Fortune, he resolved to despise that Life which he could not secure, and therefore having drunk plenty of Wine, (a course often used by such as were resolved to lay violent hands upon themselves) when his Keepers were fast asleep, by reason they had taken as great a dose, he rose from his bed, and creeping on all four found a Cord, which happened to be ready for his purpose, and putting it upon a Nail that stuck in the Wall, therewith he hanged himself, to the great grief of *Agmatzen*: For he sorrowed much, that he was deprived of the glory of carrying him alive to the *Roman* Camp; but however resolving to make as much advantage as the occasion would permit, he laid the Body upon a Camel, and having got safe Conduct by means of *Malilla*, went and presented it to *Theodosius*, having shifited it to a Pack Horse. The General joyfully received it, and in a triumphant manner returned to *Sitifi*, where he was solemnly and joyfully received by all sorts of People.

Theodosius after all his services was put to death.

Valentinian disobeys the Quadi.

Gabinus their King perfidiously murdered.

Thereupon they and other Nations break into the Roman Territories.

98. Such is the Account *Ammianus* gives us of the Arms of *Theodosius*, but what became of the General himself after his Victories he tells us not; either out of respect to his Son the Emperour, in whole time he wrote; or out of forgetfulness, or else the Copies we now use are defective. But what is omitted by him, or obliterated in his Books, we must by no means pass by, that this *Theodosius*, after all his brave Achievements in *Africa*, was upon the malicious Suggestions of certain Courtiers put to death, which he generously underwent; after he had (according to his own earnest desire) been baptized at *Carthage*. But this happened four or five years after, according to the course of the History we pursue, which, having in an uninterrupted Method delivered what we can lay of *Firminus*, his Rebellion, brings us back to the Motions of the Northern Nations, upon account of which we said several Laws had been made. For whilst *Theodosius* was employed in *Africa*, the *Quadi* suddenly took Arms, a People at this time not much to be feared, but very formidable in former Ages; witness the Siege of *Aquileia*, carried on by them and the *Marcomanni*, the razing of *Opitergium*, and many other bloody Actions performed by them, to which with great difficulty a stop was put in *Diocletian's* days by *Marcius*, who to meet them brake through the *Julian Alps*. But at this time whereof we write, they had too great cause of complaint and quarrel. *Valentinian* from his very first coming to the Government, had burnt with a generous indeed, but extravagant desire of fortifying the Limits of the Empire. To this purpose he built Castles and Forts, as in other places, so beyond the River *Ister*, upon the very Lands of the *Quadi*, as if they had been under his own Dominion; at which they were very much discontented, and to remove the Eye-fore did what they could by Messages to hinder the Prosecution of his Design. But *Maximinus*, that cruel Incendiary, of whom we have already too much spoken, being now advanced to the *Præfectship*, and transported partly by his Pride therewith, and his natural humour of Inciteering, by Letters rebuked *Æquitius*, who was then *Magister Militum* in *Illyricum*, as a careless and improvident person, that the work was not performed; and he bragged, that if his little Son *Marcellianus* was but made a *Dux* in *Valeria*, the Fort would in a short time be finished. And his Son *Marcellianus* was accordingly advanced to that Command, and not at all degenerating from his Fathers high-flown Humour, renewed the Work, which for some time had been intermitted. Hereat *Gabinus* their King much concerned himself, and in modest terms desired, that no cause might be given of jealousy and Discontent betwixt his People and the Subjects of the Empire. *Marcellianus* seemed to like well of what he urged and invited him with others to a Feast; but breaking all the Laws of Hospitality caused him to be made away ere he departed.

99. This put not only the *Quadi*, but all the neighbouring Nations into a mighty rage, who bewailing the Kings death fell speedily into the *Roman* Pale in the time of Harvest, and so unexpectedly attacked the Reapers, that they made great Slaughter of them; which done, they repalled the *Danube* with very large Booty. And it milled but little, that the Daughter of *Constantinus*, as she was at Dinner in those Quarters, being on her way in order to be married to *Gratian*, had been surprised by them; but *Meissla* Governour of the Province attending her, in good time put her into a Chariot, and with all speed imaginable conveyed her to *Sirmium*, twenty six miles distant from that place. Here was now resident *Probus* the *Præfectus Pretorio*, so much talked of, a man so little acquainted with the Attendants of War, that he was out of measure affrighted at the Slaughters and Rapines he now heard committed, and scarcely able to look up, prepared him swift Horses to make an Escape: But he was (though with much difficulty) prevailed with to stay; for

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Vide Valentinian's answer, in *Amianus*.

Quid speramus? non defuturum periculum, &c.

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Probus the Prefectus Pretorio allowed to fly for his safety.

The Enemy cut off two Legions.

Young Theodosius, Son to him lately mentioned, nobly defeats the free Sarmatæ.

His overflows to an extraordinary proportion.

Valentinian reforms an Abuse in the Army concerning the Adfectuans.

for they laid before him how upon his departure the whole Garrison would quit the place, which must thence necessarily fall into the Enemies hands. Since he could not without shame remove, he resolved to secure himself as well as he could by Fortifying the City. He foured the Ditches that were choked up, and being naturally given to Building, he repaired the Walls, which in so long a time of Peace, had been utterly neglected, and were run to ruin, defraying the Charges thereof out of the Money laid up for building of a Theatre. Besides this he seasonably sent for a Cohort of the *Sagittarii*, which lay in the very next Station, to assist in case of a Siege; which, the Barbarians duly considering all Circumstances, thought not fit to lay to the City. Their intent was to hunt and prosecute *Æquitius*, who (as their Intelligence gave them to understand) was the Contriver of *Gabinus* his Death; and they resolved to pursue him into the far distant Parts of *Valeria*. In their way they were encountered by the two Legions *Pannonia* and *Mesica*, both which made up a considerable Army, and such as had they been unanimous, would have proved invincible. But whereas Consent and Union were the only means to make them Victorious, they fell into contention about Honour and Precedence, which the *Sarmatæ* were not so dull but speedily to apprehend; and therefore without flaying for the solemn sign of Battle, they first set upon the *Mesican* Legion, which so little expected any such matter, that very many of them were killed before they could buckle on their Armour. Animated by so great success, they then attacked the *Pannonian*, and putting it to the rout, destroyed all whom speedy flight had not conveyed beyond danger.

100. Whilst these Legions had through their own folly so ill success against some of the *Sarmatians*, the Army that fought under *Theodosius* the *Dux* of *Mesica*, a very young man, (who afterward arrived at the Imperial Dignity) by the good Conduct of their General, whose Wisdom and Courage exceeded his Years, got notable Advantages against such of that Nation as were termed Free Men, (in opposition to the Slaves of whom we spoke formerly) who having invaded the *Roman* Pale, were often worsted by him; and though Numbers of them flocked about him, and imagined they should overpower him, yet still had he the better; and if you will have the Expression of *Ammianus*, so great a slaughter he made, as therewith to satiate the ravenous Appetites both of Birds and Beasts. The Barbarians then finding that no good was to be done, but that notwithstanding all their Attempts they were still beaten back, desired Peace; which having obtained, they for some time observed, being kept in awe by a great supply of *Gallican* Soldiers, which were sent for defence of *Illyricum*. While these Disorders happened in the Northern Quarters, in the Southern little Disturbance was made, but by the River *Tiber*, which by reason of excessive Rains swelled to an extravagant proportion. All the lower parts of *Rome* it overwhelmed, while the Hills themselves seemed to apprehend a danger; to which the Inhabitants having fled, were thither pursued by Famine, and late enough rescued from its Violence by Provisions carried to them in Boats from the neighbouring Parts. This seasonable Supply doubtless they carried in a good measure to the care and vigilance of *Claudius* their *Præfect*, who ought himself in his place with great temper and serenity, and restored many things which had been by the force of Time brought into disuse. Amongst others he raised the *Porticus*, which had its name from *Good Event*, adjoining to a Temple so called in the North Region of the City, near to the Baths of *Agrippa*. Such is the continued series of these Affairs, as they are related by *Ammianus*, who hath herein transported us too far, for when the Commotions began in *Africa* about the Revolt of *Firminus*, *Ampelius* (as we said) or else *Bapo* was *Præfect* of *Rome*, and not *Claudius*, whose Government happened sometime after.

101. To resumme therefore Civil Matters where we left them, when we began to speak of the *African* Wars, several other matters of consequence we find done this Year, as well by the one Brother as the other. *Valentinian* having a constant Eye upon the Northern Enemies, and for that purpose having employed *Severus* the *Magister Peditum* against *Macrianus* King of the *Allemans*, found reason to reform an Abuse he perceived in his Army. There were those they called *Adfectuantes* in every Regiment, who (as we have already said) were Supermeritury Soldiers; or rather being lifted in the Army never fought, but were in readiness to succeed such Soldiers as died or were dismissed. Some of these were not as yet fully grown or fit to bear Arms, but were exercised by the Officers of the Camp, though others of them were able enough for Service, and both sorts were wont to be provided for at the Publick Charge. But the Emperour now, to save Char-

Let. de re Militari, cæd. Pol. dicit. ad cæd. f. 3.

Sect. 2.

Publishes a
Constitution
about the
Place and Pre-
cedence of his
great Officers.

ges so ill befetted upon unserviceable persons, by an Edict directed to *Severus A.D.*
commands. That no Maintenance be allowed to the first or younger sort out of 372.
the Publick Stores, but that till they be able to bear Arms they be supplied with
Necessaries by their Parents. While he lay at *Napomacum* he directed a large Con-
stitution to *Ampelius* the *Præfess* of *Rome*, concerning the Rank and Place of the
greatest Officers. Thereby he declares the *Præfess* of the City, the *Præfess* of
Pretoria, and a *Magister Militum* to be equal in Degree and Dignity; for as
yet there were only these three which were *Illustrious* by peculiar Title, nei-
ther till now was the *Magister Militum* equal with the other two. But he now
thought fit to confer on all the like Degree with this Caution, That after the Dis-
charge of their Offices, and their returning to a Private Life, they should take
place of one another according to their Seniority in their Employments, or the
Dates of their Patents, like as they had done when they were in Power. This
Rule he would have observed when they met upon the Bench of any Judge,
when they satled the Governour of a Province, or at any ordinary Assemblies;
but not in the Senate House, or at his Privy Council, where he would have the
ancient Laws about Precedence to be in force. For, the *Honour*, or those who
had born Offices, were permitted to fit with the Judges of Provinces in their Se-
cretaria, or places of Judicature, and to be present in the Senate and other Pub-
lick Meetings. And whereas *Valentinian* makes mention of other Rules of Pre-
cedence of ancient Date in the Senate House, but tells us not what they were; we
may well believe that the Custom was for the *Præfess* of the City, and the *Præ-
fess* of *Pretoria*, to take place in a Civil Assembly (as Civil Magistrates) of the *Magi-
ster Militum*; the *Præfess* of the City first, as the Head of the Senate in those
days.

102. Such was the Order he would have observed amongst those great Officers of
the City and Provinces. By another part of this Constitution he settles the mat-
ter of Precedence betwixt such as gave him their constant Attendance in the Pa-
lace, declaring that the *Questor*, the *Magister Officiorum*, and the two *Comites*
Largitionum, should take place of *Proconfuls*, which till the making of this Law
they had not done. In the third place he provides, that the *Magistri Scriniorum*
(viz. the *Magister Memoria*, *Epistolarum*, and *Libellorum*, to whom afterward
was added the *Magister Dispensationum*) should precede all *Vicars* of *Præfess*, a
Privilege which had not formerly belonged to them, which equalled them with
Proconfuls and Governours of Provinces, above whom shortly after they were al-
so advanced. And whereas there were many deserving Commanders in his Ar-
mies, who being as were the Deputies of the *Magistri Militum*, were termed
Comites Rei Militaris, and appointed to defend some particular Provinces of the
Empire. Such of these Persons as had been so employed in Parts beyond the Seas,
(by which was to be understood in this Age the Provinces of *Africa* in respect to
Italy and *Rome* especially; and also these Provinces of *Britain*) had already ob-
tained to be *Comites* of the first Rank, should take place next to or near *Procon-
fuls*. It was thought to be a matter of greatest Merit to have commanded Armies
in places that were barren, dry, difficult of Access, and far separated from any Suc-
cour; for even such as had been sent on a Message to the Emperour from beyond
the Seas, were excused from Duties for two years space. These *Comites* in par-
ticular were he of *Africa*, as lately *Romanus*, the other of *Tingitana*, of *Britain*,
and of the *Littus Saxonicum*, or *Saxon Shore* here in this Island. These often
were advanced to be *Magistri Militum*, but by no means are to be confounded with
them, who by Dignity were *Illustrious*; for they were subject to their Command as
well as the other *Comites Rei Militaris* of the Provinces, whom they only excel-
led in having some of them obtained to be *Comites* of the first Rank, but still by
Dignity were but *Speciales*. In the last place the Emperour Ordains, That such
as by Councils or Letters had obtained the Titular Dignity of *Magistri Equitum*,
should in like manner be inferior to such as were practically, or by Office *Procon-
fuls*, the Dignity of whom was very great. These are the several parts of this Con-
stitution directed to *Ampelius*, at whose instance it seems to have been made, for he
himself passed through most of these Employments.

Valens pro-
vides for the
Citizens of
Constantinople
in several re-
spects.

103. As *Valentinian* provided for the Dignity and Precedence of his principal
Officers, To this same year did his Brother *Valens* much consult the Encouragement
and Advantage of the Citizens of *Constantinople*, and that various ways by one and
the same Constitution, (though divided now into several Laws) directed to *Clea-
rchus* the *Præfess* of that City. In the first part thereof he provides, That none

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L. 1. de Præfess
Pret. per Or-
din. Cod. Tit. 5.
tit. 7.

L. 1. de Juff.
ord. tit. 11.
de imp. tit.

L. 1. de Quo-
ribus. Tit. 1.
Tit. 1. tit. 9.
Abst. ad Cod.
Juff.

L. 1. de Magi-
stri Scrini-
orum. Cod. Tit.
1. tit. 11.

L. 1. de Comi-
tus Rei Mil-
itaris. Cod. Tit.
1. tit. 14.

L. 4. de Hon-
oribus. Cod. Tit.
1. tit. 22.

Sect. 2.

Is indulgent
to the Navi-
cularii.

Requires the
Liberate
of all Mer-
chants.

should sell the *Annua Croica*, or the share of the Publick Bread, but it should be
come void by such Sale, and some other of the same Rank be capable of having
that Allowance, not those of any other Rank: For whereas there were three seve-
ral sorts of Men that had this Allowance, viz. those called *Populares*, or of the
People, *Militares* or Souldiers, and *Palatini* or such as served the Emperour in his
Palace, he forbids that any Constitution be made by the Affignation of what belong-
ing to one sort to another. Herby he consulted for the Maintenance of the Inha-
bitants, that the Publick Allowance should not be appropriated to unfit or un-
serving Persons: And he further took care for the Improvement of their Know-
ledge and Ornament of their Minds. Near twenty years before, *Constantine* had
erected a Publick Library in this City, and appointed a Keeper or *Curator* of it,
with some under Officers and a Publick Stipend; for which he is much commended
by *Theophilus*. But further by this Constitution *Valens* appoints to the well or-
dering and management of it several others by the name of *Antiquaries*, for the ma-
king up of new Books, and mending of the old. Of these four were to be *Greeks*,
and three that spoke and wrote in the *Latin* Tongue; the greater number of
the first kind, because *Greek* was the Language of the place, and there were more
Books composed in that than in the other. And for their Maintenance he assigns
them a Portion of the *Populares Annua*, which was taken back to the publick Gra-
naries by the death of the former Possessors, or any other voidance; forasmuch as
herby that they also had Title to it, Being of the Body of the People. Further, for
the better keeping of the said Library he Ordains, That there be appointed to that
Charge other under Officers by the name of *Conditioners*, so called as others were,
for that by reason of their Condition they were subject to Questions and Tortures.
In the last place, as for the Maintenance and Studies of the Inhabitants of this City,
he provides for their Pleasure and Recreation: Whereas heretofore the *Pretors*
had observed no certain day for entering their Office, and celebrating the usual
Games, but were wont to shift it off from one time to another; he ordains expressly,
That *That Years Day*, or the *Calends of January*, shall be the Day to be observ-
ed by them all first, upon pain of forfeiting half as much more as the Charge of
the Passages they were to be at. He might think them the more obliged to do
this, because scarcely a month before for their Encouragement he had ordered,
That out of his own Stables four and twenty Horses should be lent to those two of
them, who were at the greatest Expence for exhibiting their *Curule Games*.
About four months after in this same Year his Brother *Valentinian* published an
Edict, for the search after such as absented themselves by reason of the Expence,
and the lessening of the Charge; requiring that the Senate, which had petition-
ed him in this matter, should report to him the Wealth and Sufficiency of each per-
son chosen to that Office, that he might determine of it according to the Ability of
the Party.

104. As *Valens* found reason to be indulgent towards the Inhabitants of *Con-
stantinople*, so also to give relief to the Body of the *Nauicularii*, who brought them
their Provisions, in case a Shipwreck happened without their fault: In such a case
the *Nauicularius* is required to betake himself immediately to the Judge of the
Province, where the matter was in Controversy, and there prove the Shipwreck
before him by Witnesses, whether Strangers that saw the Misfortune, or by Mari-
ners, who were subject to Examination. Then was a Report thereof to be made
to the *Præfess* of *Pretoria*, particularly to *Modestus* of the East, to whom this
Law is directed; but the business to be transacted within the space of one Year,
which was thought large enough for Ships that sailed from *Syria Phœnice* or *Syria*
Cæle. For, this Law was published at *Berytus*, a most Eminent City of the for-
mer in other respects, and for that a very rich Trade was driven from hence of very
choice Merchandise sent to the Court, as of Purple, Silks, and other things; so
that though *Tyre* was now the chief City and Seat of the *Confulars*, yet were Laws
sent thither to be published: And at this time *Valens* lay at *Antioch* in *Syria Cæle*,
or at *Seleucia*, not far distant from it. Thus we see how indulgent *Valens* was at
this time to several sorts of his Subjects, but in the mean time he forgot not the pub-
lick Revenue, and Service due to the Commonwealth. For not long after was an-
other Edict published at *Berytus*, from him directed to *Leontius* the *Confularis* of
Phœnicie, requiring that all Merchants whatsoever should pay the Gold or *Lustra-
tis Collatio*, as well such as traded in Purple as others; giving this reason, that Immu-
nities granted to some persons were injurious to the People in general. Now so great
was the esteem of Purple, and those other sorts of Wares, that it procured to the

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L. 7. de Ann-
nis. Cod. Tit.
1. tit. 11. Ab-
st. ad Cod. Juff.

L. 2. de Stabul-
lithibus. Tit.
1. tit. 11. Ab-
st. ad Cod. Juff.

L. 2. de Præ-
toribus. Tit. 1.
Tit. 1. tit. 11.

L. 1. de Præ-
toribus. Tit. 1.
Tit. 1. tit. 11.

L. 1. de Præ-
toribus. Tit. 1.
Tit. 1. tit. 11.

L. 1. de Navi-
culariis. Cod.
Tit. 1. tit. 11.
L. 2. de Navi-
culariis. Cod.
Tit. 1. tit. 11.

L. 9. de Navi-
culariis. Tit.
1. tit. 11. Ab-
st. ad Cod. Juff.

Sect. 2.

Merchants as considerable Privileges; which now *Valens* thought fit to recall, and by two other Laws under severe Penalties he forbade at the same time private persons to entertain or conceal such as wore or made up the Clothes that were provided for his Souldiers.

The fourth Consulship of *Valentinian* and *Valens*.

105. The next Year, which was the CCCLXXIII of our Lord, had for Consuls *Valentinian* and *Valens* the fourth time; it being the tenth of their Reign. *Valentinian* seems to have resided at *Milans*, and *Valens* at *Constantinople*. While the such Mischiefs happened as followed the Death of the King of *Quadi*, slain by the Treachery of the *Roman* Captain, another Disaster fell out in the East, occasioned by the Treacherous Murder also of *Paras* the King of *Armenia*. There were some turbulent Persons, amongst whom one *Terenius*, a *Dux* of the neighbouring Parts, who never ceased to write to the Court strange things against him, though he was now arrived at Mans Estate, and still inculcating the Death of *Cyprian* and *Artabanner*, affirmed him insolent and a great Oppressor of the People. Hereupon, as designing strange matters in his Head, he was invited to *Tarso* in *Cilicia*, and being there received in an Honourable manner befitting his Dignity, was kept so otherwife than a Prisoner. When he perceived he was neither permitted to go to *Valens*, nor could learn from any the cause of his Retraint, it made him very solicitous and inquisitive; and at length he discovered by some secret Intelligence, that *Terenius* had written to the *Roman* Commander to dispatch away some other person into *Armenia*, to be King in his stead; left he going back into his Countrey, should out of indignation conceived for his ill usage, withdraw himself and that Countrey, from the Empire to the Alliance of the *Persians*. Hereupon concluding with himself that his Destruction was near at hand, except he evaded it by sudden flight, he resolved with three hundred trusty men, who had attended him out of *Armenia*, to force his passage and be gone; and having very swift Horses, when the day was almost spent they made their Attempt, with more Courage than Consideration. The Governour of the Province, stirred up by his Apparition, had Charge of the Gate, overtook him in the Suburbs, and would have persuaded him to return; but out of fear of his own life, was glad to break off his Discourse, so vehemently was *Paras* bent upon it. Neither had a Legion better success that was sent after him, against which he turned and made head, and so terrified both Tribune and Souldiers, that they made more haste back than they had used in the pursuit. He was now much delivered of his Fears, but for all that made what speed he could, and in two days and as many nights reached *Ephrates*; which being at a great loss how to pass, at length he and some few made a shift by Barrels joyned together to get to the other Bank, and the rest swam over as well as they could, and after endeavouring to reach the place they designed. In the mean time *Valens* had notice of his Escape, and taking it for granted that he would renounce the Alliance, dispatched with a thousand Archers and other light armed men, *Daniel* and *Barzimeres*, whereof the first bore the Dignity of *Comes*, and the other held the place of Tribune of the *Scutarii*. They knew the Countrey very well, through which he passed altogether a stranger, and by more compendious ways overtook him, and dividing their Forces seized upon two Paths lying at three miles distance, by one of which he was to pass: But a Traveller, who coming this way had discovered the Ambushes laid to intrap him, taking another cross way, made known to him the danger, and lead him through that woody place to the common Road, by which he got safe to *Armenia*, where he was not a little joyfully received. But *Daniel* and *Barzimeres*, who had been sent to hunt him, were as much scorned and derided for having thus missed of their Prey; which so greatly affected them, that to make some amends for their supposed Stupidities or Treachery, they cast about how they might some other way destroy *Paras*; and to this purpose thought best to make use of the Credulous Humour of the Emperor, whom they made to believe that he was very expert in Enchantments, and knew thereby how to waste and debilitate a mans Body insensibly, which he easily applied to his own Person. And hereupon he conceived implacable malice towards him, and consulted daily with them or others how his Destruction might be brought about, either in a publick or private manner. At last, private Orders were sent to *Trajan*, who in *Armenia* commanded the *Roman* Forces, to accomplish it as well as he could; and he managed the matter with such cunning, by insinuating himself into his Company, frequenting his Table, and by presenting him with kind Letters from *Valens*, that he prevailed with him to accept of a Dinner at his House. An extraordinary Entertainment there was made, no want of any thing that might provoke him to eat and drink to such a pitch, as would give

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L. 35. de

Mortificati.

Cod. Tit. 10.

tit. 20. & Cod.

Ephr. 5. id.

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ano & A.

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Paras King of *Armenia* being murdered.

For which *Valens* deservedly suffered in his Reputation.

Valens makes great Preparations for war with *Persia*.

Armenia the wicked Instrument of *Kamases* hangs himself.

Valens takes care to secure the Lives and Fortunes of his Subjects.

give the Entertainer most fit Opportunity to bring about his Design, who withdrawing from the Table as forced by some necessary occasion, sent in a Fellow provided for the purpose, who cut the poor Prince in pieces, as he vainly endeavoured to defend himself. Thus the Table which (as our Writer observes) was sacred and intimate upon the very *Euxine* Sea, was made a Snare to him; which thing *Fabritius Lufinus* (he who rejected the Offers of *Timochares*, or (as some wrote) of *Nicias* the Servant of King *Pyrros*, who offered to poison his Master) if dead men have any sense of Humane Affairs, could not but bewail.

106. *Valens* with all good men suffered loss of Reputation by so unworthy an act; and yet *Sapor* the King of *Persia* was very much afflicted upon the Report of it, conceiving he had lost a great Opportunity of strengthening his Interest by the Accession of so considerable a Friend, as before this he doubted not but *Paras* would prove. But the *Roman* Army in these Quarters taking more Courage at what had happened, he thought it best to send one *Arfaces* on a Message to the Emperor, to persuade him to ruin that *Armenia*, which had been the cause of so much mischief, or else to give way that the Division of *Hiberia* might not be observed hereafter; but the *Roman* Garrisons removed, and that *Aspacures*, whom he had preferred, might be suffered to reign over the *Armenians*. To this *Valens* answered, that he was resolved to stand to the last Agreement, and maintain that Treaty to the utmost. And *Sapor* made a Reply, but when Winter was now almost spent, and that founded upon light and frivolous pretences; for he affirmed the Controversie could not fully be decided, but by the Intervention of those who were employed by *Jovian* at that Treaty, some of whom he certainly knew to be dead. The Emperor upon this Message thought fit to send away *Victor* the *Magister Equitum*, and *Urbicius* the *Dux* of *Mesopotamia*, towards *Persia*, to desire, that, as he pretended he would be content with his own Dominions, and suffer *Armenia* to be at its own liberty; and to assure him, that except he would suffer his men to pass up and down as they ought, he would enter into such a course as he was very unwilling to be forced to do. These Instructions were good enough, had the Embassadors kept close to them; but herein they were overzealous, that they accepted of some small Territories in *Armenia*, which were offered to them, without any Warrant so to do; and not having any other thing effected, they returned home. After them was sent the *Surenas*, the second in place from the King, whose Offers were rejected though he himself was magnificently entertained; and then were great Preparations made, that *Valens* in Spring might with three Armies invade *Persia*; to which end he sent to purchase the Assistance of the Northern Nations. *Sapor* thus frustrated of his hope, was exasperated above measure; but concealing his Indignation, when he perceived the Emperor to be Arming, he ordered the *Surenas* to reduce what had been gotten by *Victor* the *Comes*, and *Urbicius*; and to cut off if possible those Souldiers which were appointed to the Defence of a place called *Sawomaces*, which things took effect and were not to be cured; the *Goths* at this time striking a terror into those who steered the Helm of the Empire. While these things happened in the East, Vindicative Justice (as *Ammianus* observes) concerned it self for what Villanies had been committed in *Africa*, in relation to the Affairs of *Triopolis* lately related. Now was *Remigius*, who so favoured and assisted *Romanus* in his extravagant acts committed in that Province, reduced to a private life, after that *Leo* was made *Magister Officiorum* in his stead, and was intent upon his Countrey Concernments about *Mogontiacum* or *Metz*, where he was born. Being thus reduced, *Maximianus* now advanced to be *Præfektus Pretorio* despised him, and making it his business to do mischief, laid hold on one *Celsinus* who had been his Domestic, and afterward came to be Notary to the Prince, and tortured him to make him confess what *Remigius* did, or how much he received to be assistant to *Romanus* in his cruel Practices. *Remigius* having notice hereof, being pursued by an evil Conscience, or overcome by fear, to prevent all other Inconveniences hanged himself.

107. *Valens*, however he dealt with the *Armenian Paras*, yet by several Laws at this very time, took care that his Subjects should not, by any slight, or other indigent courtie, be deprived of their Lives or Estates. Therefore in case of Appeal he required that the whole Process containing Evidences or Instruments, Acts of Court, Testimonies, Confessions, and all other things transacted in Judgment, should be transmitted to him, when he himself was the *Judex ad quem*. More over he ordained, that none should be convened or judged out of his own Province, which must be understood when there was to be had; otherwise the

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L. 35. de

Mortificati.

Cod. Tit. 10.

tit. 20. & Cod.

Ephr. 5. id.

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Judge of one Province might send to another to seize and remit a Criminal, which had fled out of his Jurisdiction, as is evident by many Laws. But whereas by the old Law had been provided, That when one person accused another of any Crime, he was to write down his own Name, and at his peril undertake to prosecute or make good his Charge; this either through the Negligence, or Cruelty of the ordinary Judges was at this time much neglected. He thought therefore to reinforce that Law by another Edict, by which he declares, That whosoever brings into question and danger, the Fame, Fortunes, Life, and Blood of another Person, must expect the Punishment due to the Crime which he cannot prove. And yet further against Defamations he declares to be in force not only the old Laws, (as the *Edictum perpetuum de Calumniatoribus*, the *Lex Cornelia de Injuris*, and others) but also later Constitutions of Princes. In this same Edict he provides against rash Accusations, by pressing, that no Accuser is to be heard without entering his Name, and taking the thing upon himself, as was lately said. But especially he condemns *Libels*, or Accusations having no Name of Author affixed to them. Whatever his Practice was, such were his Laws, and agreeable to them his Prosecution made to the Senate of *Constantinople*, and mentioned by *Theodoret*, that the Commonwealth laboured under a greater Burthen when oppressed by Calumniators, than when overpowered by Barbarians. In reference to the renewing of Appeals he also ordained, That the Party should do it within three months, and thereof give notice to his Adversary.

108. *Valentinian* this Year further concerned himself about the *Prætorship*, that chargeable and troublesome Office incumbent upon Senators. He commands the *Prætor* to be named ten years before he should come to the Charge, as the Custom formerly had been; and that within five months after he should be informed of his Nomination by the Officers of the *Præfect* of the City, under pain of forfeiting ten Pounds of Gold. Having had notice he allows him seven months to deliberate whether he shall accept of the Burthen or make his Excuse; so that from the Designation to the Notification and Excuse an whole year should intervene, the usual fatal term (as it is styled) of Excuses in Civil Matters. Of such Excuses the *Præfect* of the City must have Cognizance; and a select number of Senators, in which none must be reckoned who had given their Vote for the Election of the Party, it being presumed that they might desire and endeavour to confirm what they themselves had done. These Judges he severely charges to admit no frivolous Excuses, nor any unreasonable Proposals on either side, on pain of being esteemed and declared public Enemies, for having thereby dishonoured that sublime Body of the Senate. Him that unjustly excused himself he will have, as unworthy of the Honour, to be incapable of the *Prætorship*, besides a Mult imposed upon him if his fault was great; otherwise if but small, he shall be constrained to accept the Charge. If he had a just and fair Plea, he excuses him from the Burthen; as by another Law, (which seems but a part of one and the same Constitution) all those who for their Merit had obtained the Dignity of Consul or *Præfect* *Prætorio* by Codicils or Letters Patents. This very Year *Gothofred* thinks *Volusianus* to have been *Præfect* of *Rome*, and therefore draws back those Laws, which in the old Chronology of *Theodosius* his Code are said to have been directed to him in the CCLXV Year of our Lord, and the second of *Valentinian*, to that whereof we now write. For in that Year was *Symmachus* *Præfect* of the City; and *Ammianns Marcellinus* writing of the *Præfects* which were in the time of *Valentinian*, after *Apronianus*, reckons them in this order, *Symmachus*, *Lampadius*, *Juvenius*, *Prætextatus*, *Olybrius*, and then *Amplius*; so that *Volusianus* must have born the Office after all the rest. The first of the Laws drawn back to this Year, and directed to him, is concerning the *Prætor*; also, for renewing one formerly made by *Constantine*, whereby was ordained, That if such as were to celebrate the usual Games absented themselves, according to the Degree of their Dignity, they should be condemned to pay a certain quantity of Wheat. This he declares shall continue fixed and inviolable, although it was often changed, abolished, and restored. The Mult imposed by *Constantine* was the Payment of Fifty thousand *Modii*, from which he excepted those that were under the Age of sixteen years; and sometimes distinguished *Questors* from *Consuls* and *Prætors*, as *Valentinian* by this his Confirmation excepts those to whom he himself had given Licence to be absent; as by another Law thought to be part of this very Constitution, the *Palatini* or principal Officers in his Palace.

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L. 10, 11, de
Assiduationibus
et infcriptionibus,
Cod. Th.
l. 1. tit. 1.

L. 8. de famuli
libelli, Cod. Th.
l. 1. tit. 1. §. 1.
de Calu.

L. 22. de Prae-
toribus, Cod.
Th.

Tirinius fa-
talis.

L. 23. §. 1. tit. 1.

In Chron. ti-
torica ad An.
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L. 1. §. 1. de Prae-
toribus.

L. 29. de Divi-
nitibus, Cod.
Th. §. 1. tit. 1.

Sect. 2.

Valentinian
changes the
Wine allowed
to Burners of
Lime into
Money.

109. Other Laws there are still extant directed to this *Volusianus*, whereof some appertain to the *Jus privatum*, and regulate the way of Proceedings in Suits, and are not so proper for our Cognizance. Another there is which assigns the manner and measure of finding Lime both to the Inhabitants of *Campania* and *Tuscia*. *Constantinus* had formerly by his Edict allowed to the Burners of Lime a certain quantity of Wine, viz. an *Amphora* for every three *Vebes*, and as much to the Carriers or Conveyers of it for every nine hundred pounds weight, paid by the Possessors of such Grounds, as were obnoxious to this Imposition. But *Valentinian* now thought fit to change this Wine for Money, allowing for every *Vebis* one *Solidus*, and that not all to be born by the Possessors of the Lands, but a third part by them, and a fourth by the *Arca Pinaris*, of which we have spoken heretofore. Such Provinces of *Italy* as abounded in good Wines were obliged to afford Lime to the City of *Rome*, and *Campania* with the chief, which is much celebrated by Poets in that respect, as well as by other Writers. And *Tuscia* also was comprised in the number. But whereas heretofore those Possessions of such obnoxious Lands were very much oppressed by the ordinary Judges and their Officers, who assumed the Power of Exacting of them Wine for as great a quantity of Lime as they pleased; the Emperor opposeth this Grievance by limiting what they were to find to three thousand of the lesser sort of *Vebes*. And in the third place he allots this Allowance to its several Issues or Receipts, viz. to the maintenance of the Aqueducts one half or fifteen hundred *Vebes*, (so great care there was at this time and ever had of them) and the other half to the publick Works of the City. But out of this Allowance he excepts that which was wont to be made by *Terracina*, or that which the Ancients called *Anzur*, the Hill whereof, on which it stood, had a great Quarry of that Stone, of which Lime was wont to be made, and appropriated to the repairing of the Haven and Watch-Tower or *Pharus* of *Holstia*. For the Emperor *Claudius*, to encourage Navigation, built there a most stately Tower, in imitation of that of *Alexandria*, on which he ordained Lights to be constantly kept by night; besides a most large Haven for the Reception of all sorts of Vessels, which *Pharus* was afterward repaired by *Antoninus Pius*, and both of them had not only such a quantity of Lime appointed to the Repairing of them, but a Company or Body of Artificers, and an *Apparitor* or Overseer sent from the *Præfect* of the City, as is rationally conjectured. In the next place he pardons to the *Decuriones* of *Tuscia* no less than nine hundred *Vebes* of Lime which they were wont yearly to pay; for this Burthen had lain upon them as several others did upon the *Curiales*, or the Senators of Cities or Corporations. But with this condition, on heremits it, that if afterward there happen to be any necessity for raising some publick Work, upon notice given to him thereof by the *Consulares*, he shall determine how much Lime they shall find for the effecting of it; from which is collected, that *Tuscia* of old did not contribute this Stone for the use of the City, but for the Works which were raised within its own Towns, at the discretion of its peculiar Governours called *Consulares* *Tuscia*. Another Edict we find inscribed in like manner to this *Volusianus*, out of respect to the *Præfectus* *Prætorio*, by which Title he is styled in the same Inscription: It declares, That if any one having been cast by the Sentence and Judgment of the *Præfect*, had thought fit to supplicate the Prince, in case he was then also overthrown, there should be no more place for Supplication for the same matter or cause. For such was the Dignity of this great Officer, that out of respect to his high Condition no Appeal lay from him, but for Honours sake it was called a *Supplication*. The last Law that bears his Name is by Title of *Præfect* of the City, as indeed he was, occasioned it seems by a Difference betwixt him and the *Præfectus* *Annone*, concerning the Management of Corn. The Emperor declares, That the Care thereof be incumbent on them both, that so the one *Præfect* be not defrauded of his due; nor yet the Power of the other be abridged, but to that end that the Inferiour acknowledge the Preheminence of the Superiour, and the Superiour own what belongs to the others Employment.

The third
Consulship of
Gratian with
Equitius.

110. For the CCLXXIV Year of our Lord, *Gratian* the young Emperor, the third time, with *Equitius* bore the Name of *Consul*. *Maximianus* from *Præfectus* *Annone* had ere this been advanced to be *Præfectus* *Prætorio*; *Enupracinus* was at this time *Præfect* of *Rome*, having formerly executed the several Offices of *Magister Memoria* and of *Questor*, and toward the later end of the Year was succeeded by *Claudius*; and of the same City *Simplicius* was *Vicar*. *Valentinian* was now builed in raising a Fort near *Basil*, (by the Inhabitants of those Parts called *Robur*) after

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L. 1. de Calu-
cinationibus, Cod.
Th. l. 1. tit. 6.
Abst. l. 1. Cod.
Th.

Arma Chalchis,
Pinnaculi Li-
bræ, Campanæ
Iaculum. Sida-
stus. Vide
Cod.

L. 5. de Pre-
fatis Imperatoris
officiis, Cod.
Th. l. 1. tit. 1.

L. 1. de Officiis
Præfecti urbis,
Cod. Th. l. 1. tit. 1.

A.D.

374.

Gratianus
A. 3. & E.
quitio Cof.

Sect. 2.

The Barbarians invade Nigritum.

after he had wasted the Territories of the *Allemans*, when News was brought from *Probus* the *Præfēt*, that the Barbarians had invaded *Nigritum*. This he would not easily believe, but to fetch a true account of the business, he dispatched away one *Paternianus* a Notary, by whom being informed that the Barbarians had indeed broken into the *Roman* Pale, he fully resolved by all means, and all speed he could make, to chastise their Insolence, not doubting but to drive them back by the very appearance of his Army. But ere all this was known and resolved, Autumn was already spent, and besides the season of the Year, several other Reasons there were to persuade him to stop his Journey; which those about him (though with extraordinary difficulty) did so much improve, that overcome therewith he put off his Expedition to the following Year. The greatest Argument used was the necessity of opposing *Macrianus* the King, who added to much Courage and Resolution to the innate Ferocity of his Nation, that nothing seemed strong enough to withstand his Attempts. Therefore did the Emperor remove from *Milan* near to *Mentz*, whether the proud King also came to an Interview with him upon the River *Rhine*, and it had so good success, that a Peace was agreed and sworn to, which *Macrianus* kept inviolable to his Death, and died at last in *France*; for having invaded it with all sorts of Hostility, he was circumvented by the Wiles of *Mellobander*, a warlike King of that Country, and slain. This Peace thus established, *Ammianus* brings *Valentinian* into his Winter Quarters at *Trier*, and there leaving him visits the Court of his Brother *Valens* in the East, where he finds all out of order. This Prince, as he was by nature very rigid, delighted in hearing Causes; that he might shew his Severity upon such as he should find to be in the wrong. But his Courtiers concluding that their Trade would be spoiled, through that light he would receive by the Advocates, used their utmost endeavours to dissuade him from that practice, as a thing infinitely below him. And they found *Modestus* his *Præfēt* *Prætorio*, a Clown nothing vers'd in Antiquity, but perfectly a Slave to the Court Eunuchs, to be fully compliant with them, who would always tell him, that it was below His Majesty to condescend to hear such frivolous matters. This *Modestus* was that *Domitianus Modestus*, who had formerly in the Reign of *Constantinus* been Comes of the East, and when *Julian* came to the Government, was accused as having too much defended his Cause. But this Emperor being come into the Eastern Provinces, he feigned himself a Pagan, and thereby not only appeased his Anger, but obtained to be *Præfēt* of *Constantinople*, which Office he again executed when *Valentinianus Nobilissimus Puer* and *Vicor* were Consuls, in the sixth year of this Emperor *Valentinian*, wherein he finished a most magnificent Cistern in that City, which he had begun in his first *Præfētship*, and from him being placed in the eleventh Region thereof, it had the Name of *Modestiana*. We have already spoken of his egregious Flatteries, and not likely to hear more of him, we further add, that he had a Son by name *Instantinus*, who also attained to be Comes of the East.

Great Corruption in the Courts at Constantinople.

III. Hereby it came to pass, that both Judges and Advocates did what they listed, and made a Market of all mens businesses, delegating them to unfit persons, as their Interest and Profit suggested to them. And here our Historian falls into a great and long Invective against the Advocates or Orators of this time, for their Rapacity, Ignorance, and Impudence thereupon commonly following; and the more to set them out he compares them with those of the *Greeks* and *Romans* in former Ages: And though he makes them as bad as bad can be, yet that he is not therein very extravagant, or acted wholly by Malice and Prejudice, some Laws made at this time sufficiently convince us, which by prescribing the Remedy, do to understanding persons sufficiently make out the Diffemper. For these very Emperors by several Edicts thought fit to ordain, That no man should be Judge and Advocate, both, in the same Cause, that they should not break forth into opprobrious Language, for which they are so severely taxed by *Ammianus*; neither make any Contract before hand with their Clients, nor refuse such Fees as they thought fit freely to give them; that they should not industriously protract Justice; that the *Honorati*, or such as had born Offices, exercising the Function of Advocates at *Rome*, should thereby receive no Benefit or Reward, nor sit on the Bench with the Judges, but in the place we have formerly said to belong to them, or stand as Advocates were wont to do. But *Valentinian* concerned himself not only in matters relating to Civil, but to Military Concernments also; for at the Suggestion of *Probus* the *Præfēt* *Prætorio* he ordered, That when there was necessity for some new Work to be raised, if the third part belonging to the City

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Perit autem in Francia publici, &c. Ammian. lib. xix.

Vide L. 2. de publicando. Cod. Th. l. 1. de. Cen. Cen. Grat. & L. 5. Cod. Jus. lib. xii.

L. 18. d. Opus publicum. Cod. Th. l. 1. de Jus. lib. xii.

Sect. 2.

Valentinian orders one City to assist another.

Forbids the Killing, And the Expelling of Infants.

Severe against such as harboured Thieves.

Indulgent to Painters in an high measure.

concerned could do it, it should be lawful to make up the Summe out of the Revenues of other Cities. For Cities or Corporations had certain Revenues appropriate to them, and particularly Tributes or Tolls; and of these Revenues part was ordained for Maintenance of publick Works, as a third by *Valentinian* in this Law whereof now we speak; to which Service certain Lands were defined or appropriate. In like manner by the ancient Canons and Ecclesiastical Laws, of the Revenues belonging to Churches, four parts or portions were made; whereof one was assigned to the Bishop for support of his Dignity; a second to the Priests, Deacons, and Clergy; a third to the Reparation of Churches; and a fourth to the Relief of the Poor, Infirm, or Strangers. Which Assignations were also made by the Laws of the *Lombards*.

112. To *Probus* he gave out another Edict not long after, for clearing a Doubt concerning the Punishment of a notorious Crime, but too frequent in those days. It had been the Opinion generally both of Heathen and Christian Writers, that it was a Sin to kill Infants, although by reason of a depraved Custom in some places they were scarcely reckoned amongst Mankind, before they were delivered to Nurses. But however the Punishment due to the Offence was uncertain, the Offenders being most commonly but banished; till *Valentinian* now thought fit by this Edict to make it no less than Capital, as esteeming it altogether a Pious Crime. The Law was propounded at *Rome*, and is rationally thought intended chiefly against the Practice of Strumpets, which too ordinarily made away their Bastard Children, both then and in all Ages besides. But as our Emperor thought fit to prohibit the Murdering of Children, so also the Exposing of them, by another Constitution, which commands each Parent to take care of his own Issue, under pain of undergoing what the Law imposeth in that case; and if the Lords or Patrons of any Children did so expose them, he declares them thereby freed from the Dominion of such Lords, and to belong to those who had taken Compassion of them in so great misery. So frequently were Robberies now committed about *Rome*, and chiefly by reason of the harbour and retreat they had to several places in the Country, that upon the Relation of the matter by *Simplicius* the *Vicar* of the City, *Valentinian* by his Rescripts thought fit to declare, That whosoever received and concealed a Malefactor, should be liable to the same Pains and Forfeitures, as the Criminal himself ought by the Law to undergo. As he was severe against Malefactors, so this Somer as indulgent towards Painters, to the Art of whom he naturally bore a great Affection, and which had in all Ages indeed, wherein Barbarism did not prevail, been much prized; so that the former *Roman* Laws gave to men of this Profession Immunity from all Services. But their Privileges he enlarged now by a Constitution directed to *Chilo* the *Proconsul* of *Africa*, That no fewer than nine several Immunities he conferred on them, whereof the first freed them from the *Capitatio*, or Paying for the Heads both of themselves, their Wives, and Children. And whereas in the ordinary *Census* or Tax, Lords were wont to pay for their Slaves, but especially for such as were Barbarians, or not born within the *Roman* Pale; he also discharges Painters of that Burthen, as to this particular.

113. Moreover for such Pictures as they made themselves, though they trafficked with them, he would not have them pay the *Lastralis Collatio* or Imposition on Merchandize, as they were obliged for what they bought to sell again. And whereas there were certain *Pergule* or Shops belonging to the Publick, where Wares were exposed to sale, and Professors of the Liberal Arts were wont also to teach for Reward, (till *Theodosius* the Younger took away the Custom, that the Publick Professors in the Capitol might have more Encouragement) he ordains, That Painters should have the use of them Rent-free. Neither will he have them obnoxious to the *Metatus*, or harbouring any Soldiers or others against their will, which Privilege was also allowed to Physicians and Professors; but he also exempts them from the Jurisdiction of the *Pædani Judices*, or inferior Judges, thereby granting Authority over them only to the Governours of Provinces or *Vicars*, which Immunity is singular, and not to be found granted to any other sort of men. In like manner was it not indulged to others, to remove and change their Habitations when, and as oft as they pleased; which yet he permits his Painters to do. He also discharges them from Services by Horles and otherwise, And in the last place he permits not the Judges to constrain them to draw the Pictures of the Emperours themselves without Wages or Reward: From which we may learn, that the Governours of Provinces were wont unjustly to exact, as

Señt.2. of their Employment they had skill in Horfes, from amongst them were constant-
ly the fittest Perfons chosen out, and sent into the Provinces, to try and approve
such as were found by the Subject by way of Tribute; and as in respect of other
Employment abroad, they were joyned in Reputation with *Domestick Protectors*,
the *Agentes in Rebus* and others; so often did they commit Extravagancies and
burthen the People; especially if the Superior Officers connived at them, as pro-
bably did *Probus* the *Prefect*. Therefore for Reformation of this Abuse *Valen-*
tinian writes to *Zosimus*, who being nearer at hand as having his Residence at *Apul-*
loria, was capable both to know and correct it; which he enjoyns him, under
pain of his Office being fined for every such Neglect an hundred pounds of Sil-
ver. Amongst other Complaints put up by the *Epiſcops*, this also it seems was
alleged, that the *Præſidium*, or Apparitors of the *Præſectus Pretorio*, did grie-
vously haraſſe the Country by their Exactions and greedineſs of Gain, for so *Val-*
entinian in another Edict tells this ſame *Zosimus*, though by Imperial Authority
ſuch Oppreſſion had been ſtrictly forbidden. For, they depending upon
the Hiſheſt Dignity next the Emperour, and not ſubject to the Ordinary Go-
vernours of Provinces, in Collecting Tributes, and otherwiſe, made Uſe of their
power to terrify the poor People, for which Reaſon they had formerly been for-
bidden to have any thing to do in the raiſing of Tributes. Now he expreſly
Commands, that none of them be permitted to Execute the Office of *Exactor*,
neither have the Charge of the publick *Granaries*, lest they ſhould imbezle the
Corn or other Proviſions, which it would be difficult to Recover out of their
Hands; nor have as much as the Employment of a *Curioſus* or *Stationary*, who
had Care of the *Curſus Publicus*, and was wont to diſcover Criminal Perfons to
the Judges. If any ſhould diſobey this Order, he wills him to be put down to the
Employment of *Suſceptor* (which was inferior to his Quality, as belonging to the
Officers of the ordinary Judges of Provinces) and that his Name be tranſmitted
to his own Perſon.

Faſtius
ſtrangeſt put
to Death.

Valentinian
invades the
Country of
the *Quadi*.

117. But to prosecute our Story; *Valentinian* lying at *Carnuntum* three Months
together in the Summer time, viz. *June, July, and Auguſt*, made preparation of all
Necessaries, if occasion should serve, for Chastising the *Quadi*, who had caused
very great disturbances in those Quarters. There in the presence and sight of
Probus, *Fauftinus* the Sisters Son of *Juvenius* the *Præſectus Pretorio* of *Gall*, after
Torture, perished by the hands of the Hangman, having been accused
of killing an Aſſe for the Exercise of some secret Arts, though he denied he had any
ſuch Intention; and it was farther laid to his Charge, that when one *Nigrinus*
in a jeſting manner deſired him to make him a *Notary*, he should laugh, and bid
him first make him Emperour, if he would be so preferred; but this Drolling cost
both of them their Lives, and was the Destruction of more besides them.
Now was *Merobaudes* with a Party of Foot, and with him *Sebaſtian* a *Comes*
sent to waste the Borders of the Enemy; and *Valentinian* departed with Speed to
a place called *Acincum*, whence passing over his Men on a Bridge of Boates he
invaded the Territories of the *Quadi* in another quarter. They hearing of his
coming, from the Mountains observed his Motions; and when he appeared, fled
into the remoter parts of the Country, with their Wives and Children; where when
they found themselves also Attacked; of whom many being killed, and their
Houſes burnt, the Emperour returned in safety with all his Army. He staid at
Acincum till the year was almost spent, desirous to find out some convenient place
in those Frozen Tracts, wherein to pass the Winter; but could light of none so fit as *Sa-*
baria, although that too was far from convenient. Passing therefore on by the
Rivers side which he fortified all along as he saw need to require, with Castles
and Garrisons, he came to *Bregetio*, where he was admonished of his approaching
Fate, by several Signs, as our Writer gathereth. For, a few days before, Blazing
Stars appeared, and at *Sirmium*, the Palace, Court-house and Forum were all
struck with Thunder; while he continued at *Sabaria* an Owle perched upon the
top of his Bath, and there making an unpleasant noise, could not be driven away
by all the Stones and Arrows the multitude could cast. Being to march from
that place, he resolved to pass out at the same Gate he came in, as thereby to signi-
fy that he should return back into *Gall*, but the Gate having been neglected a long
time, was now choked up, and by no means could the Port-Cullis be raised, though
there was all endeavour possible used; so that the time being much spent, he
was forced to take his way through another Gate. The night before he died, he
thought

They find
their Amba-
ſadors and
beg Peace.

To whom gi-
ving Audi-
ence, he falls
into a Rage
and Dies.

Of which he
dies.

thought he saw his Wife sit by him in a sorrowful Poſture, in an ill Habit, and with
her Hair hanging upon her Shoulders, which *Ammianus* believes to have been his
Fortune, or *Genius*, now ready in that rueful manner to depart. When in the morn-
ing he came out with a sad and dejected Countenance to mount, the Horſe
would not admit him, but reared; and while his *Strator miles* as *Marcellinus* calls
him, struggled to put him into his Saddle, against his Will his Hand gave him a
Blow, which thereupon he commanded to be Cut off. And the Innocent Young
Man had perished, but that *Cerealis* the *Tribunus Stabuli* with danger of his own
ſafety, deferred the Execution.

118. After this came the Ambassadors of the *Quadi*, and with all Signs of Humi-
lity, begged pardon for past Offences, which the sooner to obtain, they offered a
Supply of Soldiers and other things, whereof it was convenient enough for the
Emperour to accept: For he was not sufficiently furnished with Proviſions, nei-
ther would the Season of the Year permit that he should attempt any thing more
against them at this time; and therefore, it being resolved that they should be
heard, they were admitted into the Confistory. There, while they stood with Body
and Mind both dejected, and were commanded to declare what they had to say,
they made the usual Excuses, and confirmed them by Oath, that what of late hap-
pened, was not by any Designe or common Consent of the best of their Nation,
but committed by a Ravenous sort of Borderers living upon the River, whom
they affirmed to have been provoked by building the Fort we lately spoke of,
contrary to all Justice and the Roman Interest. With this their Discourse, *Valen-*
tinian was enraged above measure, and with a great noise upbraided their whole
Nation as ingrateful. Being a little pacified, he sunk down, as if he had been
struck from Heaven, and seemed deprived of Life and Voice altogether; his
Blood stopped, and he was seized with cold Sweat, which those about him
perceiving, that he might not die in a Crowd, conveyed him into his Chamber.
There, being laid on his Bed, though drawing on, he had his Understanding
perfect, and knew all that were with him, whom they of his Chamber had im-
portuned to come in, lest it should be imagined that he was made away. The
heat he felt inwardly was so great, that a Vein necessarily was to be opened, (as
our Historian describes his Disease) but no Physician could be found; he having
dispatched them all away, to take care of the Army which was now seized with
the Plague. At last they light upon one, who pricked him several times, but
could not make him bleed, his moisture being either consumed by the violence
of his Fever, or his Veins dried up by the coldness of the Climate where he Re-
sided. Being sufficiently sensible that nothing but Death was to be expected, he
would have spoken and given order in some Matters; but was hindered by Con-
vulsions which shewed themselves in a most violent Hicough, and various Contorſions
of his Limbs; so that, fully overcome by the Fury of his Disſtemper, which betray-
ed its Malignity by the Blew Spots wherewith it beset his Skin, after long
struggling he breathed out his Last, in the five and fiftieth year of his Age and
of his Reign the twelfth, which to complete he wanted an hundred days.

119. Such is the Account which *Ammianus* gives us of his passage out of this
World, according to the Printed Copy of his History now most in Use, though
the Text seems neither well to agree with it self, nor with other Writers who
speak of the same Subject. For they generally say that he died Bleeding, or ra-
ther of Bleeding, and some, by voiding it from the Stomach, and others out of the
Lungs; so that instead of *stopping of the Blood*, in *Ammianus*, is rather to be read
Blood suddenly gushing forth. In such Malignant Fevers as the Spots betrayed his
to be (and probably as Malignant as the Pestilence wherewith his Army was at this
very time afflicted) such Symptoms as these wherof the Historian discoureth, are
frequent enough, extravasation of Blood, symptomatical Sweats, Hicough, Con-
vulsions and the like; although *Ammianus*, amongst other sorts of knowledge to
which he affectively pretends in his Book, seems little to have understood that of
Physick. And yet less reason had a far later Author than he to pretend to it,
who speaking of his End, saith he died of a sudden Effusion of Blood, which he
makes the same Disease with an Apoplexy; and in this Apoplexy, he adds, that
though he lost his Voice, yet he Expired in his perfect Sense or Understanding.
He further writes that most Authors affirmed him to have Contracted this Di-
sease by his great Intemperance in Diet, and yet it is commonly reported that
his Veins were opened by his extraordinary Passion, at the Audience given to
the Ambassadors of the *Quadi*; in particular, *Socrates* relates, that he fell into
that

Pro reſpice co-
hibito ſanguine
legendi evan-
geſta ſcripta
ſanguine.

Sect. 2.

that Exclamation and Fury, upon seeing the said Ambassadors to be of vile and abject Condition, and that he demanded whether the rest of the *Sarmatæ* were such men as they. They answered that they were; for he had now before him those of the highest Quality of that Nation; whereas he was wonderfully incensed and brake out into a vehement Indignation, that the Empire of *Rome* should have so ill luck as to fall into his Hands; during whose Government he beggarly and base a sort of Barbarians could not content themselves to live quietly within their own Bounds; but must Rebel, take Arms, and so boldly make War against it. He strained himself so much in declaiming against them that, as he says, he opened every Vein in his Body, and brake the Arteries asunder, out of which issued so large a Stream of Blood that he died in the Castle commonly called *Bergitum*.

A.D.
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A more Accurate Account of his Government.

120. His Fathers Name (as we hinted before) was one *Gratian*, who had the Sirname of *Funarius*, because he was so strong in his Arms that five Souldiers could not wrest a Rope from him. This *Gratian* being for his strength taken notice of, was preferred, and by degrees arose to the Dignity of *Protector* and of *Tribune*, and at last came to be *Comes rei Castrens* in *Africa*, where being suspected of Rapine he gave over his Employment, and long after had the same Command over the *British* Army. At length being dismissed without any thing laid to his charge, he returned to a Private Life, and was afterward heavily fined by *Constantius*, for that during the Civil War he was said to have entertained *Magnentius* in his Passage. *Valentinian* his Son having the advantage of his Interest and Repute in the world, improved it sufficiently by his own Merits till he arrived at the highest Dignity upon Earth; and thereto had the opportunity also of raising his Brother, with whom he reigned in perfect Concord. In his Government the first thing he applied himself to was the care and defence of the Borders, of the Forts and Castles standing upon Rivers, (which he principally attended all his life;) and to protect *Gall* from the *Allemans*, who had grown confident and daring upon the death of *Julian*, the Prince whom alone they feared after the Emperour *Constantius*. And his Felicity was such, that he reinforced the Army with a very great Supply; and such was his success in building new Forts where there was want, as well as repairing the old, that not an Enemy could pass into the *Roman* Pale undefended. He made use of industrious Captains, whom he rendered such by his own Industry; and where the Lions Skin was too scant, he enlarged it by that of the Fox. For having assumed his Son *Gratian*, to the Dignity of *Augustus*, to prevent Competition he caused to be made away *Vithigabius* the Son of *Vadomarius* King of the *Allemans*, a young Man in the flower of his Age, who ceased not to animate his Countrymen against the *Romans*; after which he gave them a notable Defeat at *Solicinium*, having narrowly escaped being circumvented, and being destroyed by them. Having thus cautiously managed his matters against them, he turned his Arms against the rage of the furious *Saxons*, who ever rushed on in all desperate Enterprizes without fear or wit; and though by something fraudulent, yet a convenient Stratagem, eased them of that Burthen of Booty which they had pilfered from the Maritime Tracts. In like manner he refused the *Britons* from the Violence and Inroads of their Enemies, of whom having made such Slaughter, as scarcely any were permitted to escape alive, he settled them in their former Security and Repose. By the same vigorous course of Proceeding he suppressed *Valentine* the *Pannonian* Exile, before it was well known what he was attempting; delivered *Africa* from those Mischiefs wherewith it was suddenly seized, when *Firmus* drew the *Moorish* Nations to revolt; and had done the same by *Illyricum*, if he had not been prevented by death from perfecting what he was in a fair way to accomplish. In conclusion it may be said of him, That though he did great things by his Captains, yet many things he did himself, that he was of a quick Wit; and by his Experience in Military matters fit to manage the greatest Concernments of War, which would have more appeared, could he have taken *Macrianus* King of the *Allemans*, as with great industry he endeavoured to do, after he had escaped the hand of the *Burgundians*, (whom he had stirred up against that People;) which with great sorrow he understood. This is the summary Account *Ammianus* gives us of his Actions, to which he subjoins a Character less necessary than the other; for from the general Carriage of this Prince, such as we have related it, he draws the Character; but in the summary Account of his Actions he gives us hints of such things as he had not described formerly at large.

His Vices.

121. For his Vices; although he counterfeited a shew of Clemency, yet was he cruel by his very nature, delighting in Inquisitions after Offences, condemning many to

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to death upon slight occasions, and never being known to have saved any once condemned, contrary to all Example even amongst the severest Princes. He was taxed for Covetousness, as to which yet some endeavoured to excuse him, as prompted to some Actions harsh and violent, by the great Loss and Charge sustained by the Empire in the Wars against the *Persians*, whereby the Treasury had been much exhausted. This made him both justly and unjustly fly upon the Fortunes of his Subjects, and seize their Estates into his hands right or wrong; in like manner as *Aurelian* is said to have done, to recruit the publick Coffers, which had been drained dry by *Gallienus*, and the Calamities of his time. He was envious above measure, hating all that were Eminent for Learning, Riches, Nobility, Valour, and Gayety in Apparel; as *Hadrian* his Predecessor is said to have done. Against Cowards he would bitterly inveigh, and yet shew too much fear and dejectedness himself upon flight occasions; which Humour being observed by *Remigius* the *Magister Officiorum*, when he perceived him disturbed and angry for trivial things, he was wont to pretend Intelligence from the Borders signifying that the Barbarians were up in Arms, whereas he would grow as cool, milde, and serene as ever was *Antoninus Pius*. When he made choice of Judges, he never wittingly promoted any cruel or ill-principled men; but when it so happened, he boasted of them as so many *Lycurgus*'s and *Cassius*, termed them the Pillars of Justice, and by Letters stirred them up to the greatest severity against the smallest Offenders; but never relieved any, though overpowered by never so unjust a Sentence: Whereas (saith our Author) the very end of Government, as wise men have accounted it, is the Profit and Safety of obedient Subjects.

His Virtues.

122. These were his Vices according to the Character *Ammianus* giveth of him, who altho' alloweth him large Commendations for such Virtues, as (if all had been answerable) would have rendered him not inferior to *Trajan* nor *Marcus Aurelius* himself. These were great Indulgence, to the Provinces, both in easing them as much as in him lay of the Burthen of Tributes, and providing for their Safety by the building of Towns, and raising of Forts and Castles in places, where was danger of Invasions. A great Exactor he was of Military Discipline, and as to that herein only he erred, that he was excessively severe to common Souldiers, but indulgent to great Officers, against whom he would not hear any Complaints; and hence proceeded the Commotions both of *Britain*, *Africa*, and *Illyricum*. As to his Body he was exemplarily chaste, and by his own Example propagated that Virtue both in his Court, and where ever else he came, there being no Complaints of Rapes, or any other Misdemeanors in that kind. To his Kindred he was not indulgent beyond the publick Interest, either not at all preferring them, or if he did, to inconsiderable Places, *Valens* his Brother excepted, whom in a dangerous posture of Affairs he raised to the highest Dignity. He was even scrupulous in bestowing the greatest Offices; neither in his time did any man belonging to Money govern a Province, nor were any of these Employments fold except it was at the beginning of his Reign, when many extravagant things were wont to be done, out of hope that a new promoted Prince was either too busie to take notice, or else that he was generous, as such persons called him, that is, careless and negligent of his Business. As to Military matters he was very sagacious; for having been accustomed to hardship, he knew when and where to direct his Souldiers, in ordering of whom he was very exact. He wrote very handsomely, and could both paint and emboss very well; so that we need not wonder he was so indulgent to Artists of this Profession, as by an Edict he made not long before his Death we understand he was. He was very ingenious in finding out new sorts of Arms, had an excellent Memory, and Readiness of Speech nigh to Eloquence; a great Lover of Neatness, and in his Feasts and Entertainments loved to be splendid, but not profuse. And *Ammianus* placeth this as the last, though not the least of his Commendations, that in the diversity of Religions and Persuasions he stood as betwixt both Extremes, neither molesting those of the one side nor the other, nor by any terrible Edicts forcing those of other Persuasions to what he esteemed best, but left all Parties free as he found them. Which is to be derved in another place.

123. With *Ammianus* other Historians agree in the main of his Commendations. *Vidtor* writes, that he was of a comely Countenance, subtle Wit, grave Deportment, and most elegant Speech, though of few words; severe by nature, and vehement in his Severity; yet an Enemy to Vice, and especially Covetousness, upon which he animadverted with all rigidity, resembling *Adrian* in all these things. He adds, that he was mindful of Ancient Nobility, ingenious in the Invention of new Arms,

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and in making of Statues; knew how to serve himself of Time, Place, and Speech: And in a word, had he escap'd the hands of a Company of unfaithful persons, to whom he deliver'd up his Understanding, to be governed as to faithful Counsellors and wife, and had he been serv'd by Persons of Fidelity and Learning, he had been without doubt a complete and excellent Prince. In conclusion, all agree that he was of a present Countenance and proportionable Symmetry of his Limbs compos'd unto Majesty. He died in the Fifty fifth year of his Age, having reigned twelve years wanting an hundred days, on the fifteenth before the Calends of *December*, in the third year of the two hundred eighty and eighth Olympiad, of the City the MCXXXVIII, the third Indiction, in the CCCLXXX year of our Lord, *Paulinus* being Consul, as some have written; though *S. Hieron* tells us, that for this year no Consuls were created, because of the Irruption of the *Sarmata* into *Pannonia* in the preceding. And therefore (as we formerly said) in the *Falsi* it is scrib'd, *After the third Consulship of Gratian and of Equitius*.

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From the Death of Valentinian the First, to the Murder of his Eldest Son Gratian.

The space of Seven Years and Eight Months.

Valentinian's
Issue.

I. **V**ALENTINIAN left two Sons, *Gratian* and *Valentinian*; with three Daughters, *Julia*, *Grata*, and *Galla*. *Gratian* he had by his first Wife *Severa*, and the rest of his Children by *Justina*, a Lady he married (as *Socrates* writes) while his former was living, upon this occasion: *Justus* her Father, who in the Reign of *Constantius* for a good while governed *Picenum*, dream'd that his Right Side was deliver'd of the Imperial Robe, and this Dream he told to so many, that at length it came to that Jealous Emperours Ears; who conjecturing that one born of him might arrive, or aim at the Sovereignty, procur'd him to be made away. *Justina* thus bereaved of her Father continued a Virgin, and in time came to be acquainted with the Emperess *Severa*, and with her often convers'd, and grew to familiar, that she permitted her to use the same Bath with her self, by occasion whereof *Severa* saw and admired her Beauty to such a degree, that she could not forbear telling her Husband of it; affirming, that in that sort of Perfection she excell'd all other Women. That sunk deep into the Heart of the Emperour, which seem'd only to pierce his Ear; and he desir'd how he might compass this beautiful *Justina* for his Wife, without divorcing *Severa*, the Mother of *Gratian*, whom he had assum'd to a Participation of the Imperial Dignity a little before. To this purpose he made a Law, That all that were so pleas'd might have two Wives apiece, and this he caus'd to be proclaimed throughout every City; which done, he took *Justina* for a second Wife, and by her had *Valentinian* and his three Daughters, whereof two did Virgins, and *Galla* was after married to *Theodosius* the Great. But this is justly suspected for a mere Tale, nay there's little doubt of its Falseness, that Law appearing no where, and the Testimony of History being so clear against it, that it affirms him exceeding chaste; neither would other Writers have omitted so strange and extraordinary a Passage. But this may suffice, that this *Justina* was no Virgin when he married her, but the Widow of *Magnentius* the Tyrant; if *Zosimus* may be believed.

A strange
Tale of his
making a Law
for, and ha-
ving two
Wives toge-
ther.

2. The Emperours Body being duly prepared to be sent to *Constantinople*, and buried amongst the *Augusti*, Troubled with on all mens Spirits, in expectation what so great an Accident might produce; and the rather because the *Gallican* Souldiers were suspected, as those that never had kept their Fidelity to the deceased Prince, but were ever ready to raise Commotions upon such occasions. The Officers therefore in such traits proceeding in a wary course, sent for *Merebauder* their Commander in the Emperours Name, and as yet alive, to come to them; who either suspecting the matter of himself, or sitting it out of the Messenger, pretended to his Souldiers, that he had Orders to lead them to the *Rhine*, there to oppose the Incursions

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Valentinian
his Son declar'd
Emperour
by the Officers
of the Army.

fions of the Barbarians, and, according to his Instructions, he sent out of the way *Sebastian*, a man by his own nature quiet and milde enough, but in great favour with the Military men, and thereupon much to be feared. When he came to Court it was resolv'd in Council, that *Valentinian* the Son of the Deceased, a Child of four years old, (if not rather nine) and at the distance of an hundred miles, living with his Mother *Justina* in a Village called *Murocinia*, should be made Emperour. Accordingly *Cerealis*, the Boy's Uncle by the Mothers side, was sent to fetch him, who bringing him in a Litter into the Camp, he was there legally declared for Emperour (so saith *Ammianus*) on the sixth day after his Fathers Death, and named *Augustus*, in the solemn manner. All men concluded that *Gratian* would take it heinously (as well he might) that any one should be advanced to the Imperial Dignity without his Consent or Knowledge; but they lived very peaceably and lovingly together, and in this matter he carried himself both like a prudent and good-natur'd person, nay rather educated this his young Brother with too much fondness and respect.

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3. In the mean time a great Tempest began to gather to an head in the East, which occasion'd the Death of *Valens* was foretold by many Prodigies, as our Author believeth. Amongst them (if any) is remarkable the Oracle found written in a four-square Stone in the Walls of *Chalcedon*, which were pulled down (as he saith) for the building of a Bath at *Constantinople*; as others write, because the *Chalcedonians* had reviled *Valens* during the Commotions raised by *Procopius*; wherein was in Greek Verse signified, that when those Stones should be so employ'd, a stout People through the River *Danubius*, the *Scythian* Countreys and *Mysia*, should invade *Thrace*. Now *Socrates* hints, that these Walls were broken down several years before, by Command of *Valens*, who fware, That if he overcame *Procopius* the Tyrant, he would do it, because the Inhabitants of that City took his part, thut their Gates against himself, and reviled him as he pass'd by the said Walls, the Stones whereof were indeed carried to the Common Baths of *Constantinople*, called *Constantiane*. (Then were found certain Verses (he adds) signifying, That the Walls should be taken to the use of the Baths, at what time great Plenty of Waters was to be seen in the City; and that then infinite Numbers of the Barbarous Nations, invading the *Roman* Dominions, should wonderfully distress the Empire; but in the Conclusion be destroyed themselves. Accordingly not long after, the Conduit made by *Valens* yielded great Plenty of Water to the City, and at the same time several of those Nations took up Arms against the State. Yet such as will trouble their Heads with things of this nature affirm, that the Oracle might be otherwise interpreted, from *Clearchus* the *Præfett* his making a great Pipe from this Conduit into the *Forum of Theodosius*, called *The Plentiful Pipe*, the flocking together of the People, and the Feast held thereupon; but these Circumstances and the Knowledge of this supposed Oracle fell out afterwards. We are further told, that when the Walls of *Chalcedon* were going to be demolished, the Citizens of *Constantinople* made humble suit to the Emperour, that he would not so deface that City; and the like did such *Bithynians*, *Nicomediens*, and *Niceans*, as by chance were at *Constantinople* at the same time: but he remitting nothing of his Choler, took their Suit in very evil part, and that he might (as he alleged) keep his Oath, commanded both the Wall to be pulled down, and the Foundation fill'd up with Pebble Stones; whence came it to pass, that a slender and contemptible Structure was afterward rais'd upon so ancient and substantial a Foundation.

4. But the Tempest which fell upon the East was rais'd by the *Huns*, who out of greediness after Booty invaded the Empire, and raging with great Cruelty and Rapine, pierc'd at length as far as *Achaia*. This was a fierce and savage People, inhabiting that part of *Scythia* which lay upon the Ocean, beyond the Fens of *Maotis*. As soon as born they had their Checks cut and mangled, to prevent the growing of Hair, and therefore were as Beardless as Eunuchs, and ugly to behold. But their Constitution was firm and robust, as were their Limbs, and their Shoulders so large and beshed, that they look'd rather like two-footed Beasts, or rude and unpollish'd Images of Men. So hardy were they that they never us'd Fire, nor dress'd any Meat, but lived on the Roots of Herbs, and such Fleish as was chaf'd betwixt their Thighs and the Sides of their Horses. For Horses they never had any, but were as averse to them as to Sepulchres separated from common use; they wandered from place to place through Mountains and Valleys, as from their Infancy accustomed to bear the Incommodities of Cold and Hunger; which had such Influences upon their Fancies, that when they came into other Countries, they would not willingly enter

The Huns in-
vade the Em-
pire.Their manner
of living.

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within the Walls of any Houfe, as thinking themfelves not fafe when shut up and covered. Their Clothes were either Linnen, or the Skins of a fort of Mice fitched together, knowing no diftinction of Time or Place, or any Change, fo long as they could hang on. They wore a crooked fort of Cap; with Goats Skins they covered their Legs; and their Shoes were without any fhape or fhion, which hindered their pace, and rendered them unferviceable on Foot; but on Horfe-back they fought nimbly, though in an unfeemly pofture. Day and night was indifferent to them as to Buying, Selling, Eating, and Drinking; and their Sleep they took up on the Necks of their Horfes. As to their Publick Affairs, thereof they confulted in common, having no King, but living in a tumultuary confufed manner. They fought in Parties formed like to Wedges. They begun the Battel with an hideous Noife; and as in Onsets they were quick and furprizing, fo when put to flight their Retreat was diforderly, and void of all prudence; their Purfuit being alfo violent, furious, and difcompofed, wherein was obferved that they never attacked the Camp of their Enemy. Their Miffile Weapons were made of Bones joyned together and fharpned very artificially; hand to hand they made ufe of the Sword, and made it a great part of their bufinefs to entangle the Legs of their Adverfaries both on Foot and Horfe-back. They were never to be trufted in time of Truce, breaking all Laws of Nations, of Peace and War, as the fit and fury would come upon them, for they had no greater fenfe of Right and Wrong than wilde Beasts; and were of fo inconfant a humour, that without any Provocation they would fall out with their Friends, and again be reconciled without any Application made to them. To no ties of Religion or Superftition were they bound. They were greedy of Gold, though they never pierced into the Earth fo far as a Plough: For they wandered about as if they fled from an Enemy, without any Habitation, confant Law, Rule, or Order, in their Waggons, where they dwelt with their Wives and Children, whom they therein brought up till time of Puberty; fo that none could answer if demanded of him, which was the place of his Conception, Birth, or Education.

The *Alani* and their Neighbours.

5. Neighbours to the *Hunns* were the *Alani*, who alfo inhabited *Scythia* beyond *Tanis*, which River feparated *Europe* from *Afia*. If we credit *Anianus*, this People poffeffed a vaft Defert, and from the Mountains had their Name; which by their continual Conquefts they communicated to the bordering Nations, as the *Perfians* formerly had done; fo that thofe who went under this common Appellation, extended toward the Eaft their Habitations as far as the *Amazons*, and into *Afia* to the River *Ganges*, which taking its courfe through *India*, pours forth its Streams into the Southern Sea. Like the *Scythian Nomades* they alfo wandered up and down without Houfes or Agriculture, living on raw Flefh and Milk, and carrying their Families in Waggons covered over with the Bark of Trees, and ranged together in a Figure refembling that of a City. They were chiefly addicted to the breeding of Horfes, and drove before them great Herds of Cattel. And the Soil they inhabited was very convenient for this fort of Life, abounding with good Pature, and here and there befet with fruitful Trees. On foot to be fcent they accounted ignoble, as being from their Youth accuftomed to ride, and being trained up in War were in the management of it more prudent; and thence came it to pafs, that the *Perfians* being originally *Scythians*, were more skilful in fighting. In other refpects they were much like the *Hunns*; for generally they were tall and goodly Perfons, of a terrible Afpect, their Hair inclining to a Yellow, their Eyes quick; they were swift in Battel becaufe of the Lightnefs of their Armour; yet were they of a more cultivated and civil Con verfation than they. Impatient above all things they were of Reft, taking no pleasure but in Wars and Dangers, infomuch that they efteemed thofe happy who died in the Field, but fuch as were extinguifhed by Old Age or other accidents, they reproached as degenerate and fluggifh Perfons. Nothing accounted they fo glorious as to have killed an Enemy; and they were wont to trap their Horfes with the Skins taken off from the Heads of the flain. As for Religion, not a Temple nor Chapel was feen amongst them, as indeed no Roofed Houfe; but a naked Sword after an odd kind of fhion ftuck in the Ground they worfhipped as *Mars*, and the Protector of the Regions they inhabited. They had a ftrange way of foretelling things to come by Rods, on which their Women prafticed certain fecret Incantments. They knew not what Servitude meant, (yet we read that the ancient *Scythians* had Slaves) all of them being reputed as nobly defended, and in matter of Judicature they made choice of fuch Judges and Officers as were moft Eminent for Ability in War.

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The *Hunns* who fall into the Territories of the *Alani* and then upon the *Goths*.

6. Into the Territories of thefe *Alani*, who were called *Tanaites*, and were Neighbours to the *Greuthungi*, did the *Hunns* break; they fpoiled the Countrey, made great havock of all things; and entering into Alliance with fuch as remained alive, joyned them to their Body, and with great Confidence and Celerity fell into the Dominions of *Ermemich* a moft Martial King, who for his great Performances was become terrible to the Nations adjoining, but, ftruck with Conternation at fo ftrange and unexpected an Attempt, prevented his further trouble by a voluntary death. *Vithimires* being advanced into his place, by the Affiftance of fome other *Hunns* he had hired, made refiftance for fome time, but after many Loffes received was flain in fight. Then *Alatheus* and *Safrax*, two valiant and experienc'd Captains, undertook the Guardianfhip of his Son *Viderich*, who yet being ftrained in time, caft off all hopes of Refiftance, and warily came down to *Danastus*, a River running through large Champain Countries betwixt *Ifter* and *Borythenes*. This being understood by *Athanarich*, Judge or Magiftrate of the *Thervingi*, him againft whom *Valens* moved war for having affifted *Procopius*, he refolved to ftand upon his Guard, and vigorously to defend himfelf in cafe he were invaded, fending out his Scouts to difcover the Motions of thofe Rovers. The *Hunns* fufpected there was a great Number of Men, and paffing by the Scouts, fell upon him all on a fudden, who having loft fome of his Souldiers, fled to the Mountains, and afterward paffing from the River *Gerafus*, the Countrey of the *Taufali*, unto *Damblus*, there he raifed a Fortification for his own Defence, when he had efaped the *Hunns*, who were overcharged with Booty, and thereby rendered incapable of an hafty Purfuit. However, the Report of this ftrange and fudden Invaftion running throughout the other Regions of the *Gothick* Nations, they relolved by feeking out new Seats, to evade the Rage and Fury of fo Barbarous an Enemy; and relolving upon *Thrace*, both for that it was a fruitful Countrey, and from the Tracts which thefe Rovers molefted, feparated by the large Streams of the River *Ifter*, under Conduft of *Alaricus* they feized on the Banks of the *Danube*, and by their Orators humbly befought *Valens* they might be received, promifing to live quietly, and to fend him Aid upon any occafion.

The *Goths* flighted from their own Countrey refolve for *Thrace*.

Order is given by *Valens* for their Tranfportation.

They are provoked by *Lupicinus* and *Maximus*.

7. The firft Rumour of thefe ftrange Commotions in the Northern Parts ftruck all men with Admiration as well as Terror, to hear that fo vaft Multitudes of Barbarous People fhould hover about the Banks of *Ifter*, driven out of their Seats by greater Barbarians than themfelves: And indeed this feemed as by fome later Chriftians it is held, to be one of the Soundings of the Trumpet to the Diffolution of the Western Empire. Yet fome flattering Courtiers took even hence occafion to extoll the good Fortune of the Emperour, who would now be fo furnifhed with Souldiers out of *Thrace*, that he might by that Eafment treafure up abundance of Gold, fpend before this in the making of new Levies; and their Perfuaftions were fo effectual, that Order was given for Tranfporting thefe *Goths* into that Countrey, who night and day without any intermiffion came over in fuch Multitudes, that fuch as were appointed to furvey them could never attain to any certainty of their Number. *Anianus* compares them to the Troops of *Xerxes*, and the Companies that muftered at *Dorifcus*, and affirms them far more noxious than they, in that they brought Ruine to the Empire along with them, and far exceeded the Malignity of the *Perfian* Armies, which *Greece* in a manner overcame before the faw. Thefe Swarms of the Northern Barbarous People he further likens to the thick Clouds of burning Coals, which were wont formerly to iffue out of the Mountain *Etna*, and at this very fame time intercepted the Light of the Sun; and beftides what it belched forth out of its own Bowels, kindled other new and unnatural Fires, by burning all things combuftible within the Limits of the adjoining and obnoxious Countrey. And it fo further happened at this very time of danger and moft preffing difficulties, when there was greateft need of fkillful and prudent Governours; that the Provinces were ferved by moft unworthy men, amongst whom of moft Eminence were *Lupicinus* and *Maximus*, he a *Comes* through *Thrace*, and this exercezing the Office of a *Dux*; both equally guilty of Rafhnefs and the Ruine of their Countrey through their Covetoufnefs, whereby they fveral ways irritated this People, till then fufficiently quiet and peaceable: Amongft other dishonourable Practices, when thefe Multitudes were forely pinched with want of Provisions, and diftreffed by Hunger, they got all the Dogs they could together, and exchanged them for fo many Men, whom they took for Slaves, and amongst them fome of the Sons of the chiefest Perfons. However, fuch was the occafion of the Admiffion of thefe Barbarous Nations into the Bowels of the Empire, a thing of fo per-

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nicious

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Their Admif-
fion mifchie-
vous to the
Empire.Which hap-
pened when
Valens the
fifth time and
Valentinian
the younger
were Confuls.The Gratian-
us, through
forbidden.Take their
opportunity
and paß over.And all agree
together to
waite the
Country and
defeat Lucius
h. 4.

nicious a Consequence, as nothing more; and the Circumstances of their Admission were such, as *Ammianus Marcellinus* delivers them. A most gross act of Imprudence, whether of *Valens* or others, to receive such Multitudes without disarming them. Some Writers say, it was the Emperours Command that they should deliver up their Arms before they came over; but the Officers who had the charge of their Passage never had any regard unto it, being intent upon their own Gain and private Advantages, which they made of the most beautiful Women, the goodliest Boys, and strongest Slaves and Labourers they could chuse. And some were bribed by Linen Clothes and other Presents, to connive at, if it could have been prosecuted, to have them as so many Hostages for the Truth and Fidelity of their Parents. This memorable Passage of the *Goths* happened, when *Valens* the fifth time and *Valentinian* the Younger were Consuls, in the CCCLXXVI Year of our Lord, and not in the following Year, as it is erroneously placed in the Chronicle of *S. Hierom*. Their Captains were *Alavicus* and *Fritigern*.

8. These Captains with their Followers being thus received within the *Roman* Pale, not long after *Vithrich* King of the *Greuthungi*, by the Advice of *Alatheus* and *Saphrax* who governed him, accompanied by them and *Farnobius*, came down to the Bank of *Ister*, and by Messengers dispatched away in all haste sought the Emperor that they might also be received, with the same Courtesy. This for weighty reason was denied them; and when they consulted what to do upon this Repulse, *Athanarich* well remembering how he had affronted *Valens*, by pretending he had sworn never to set Foot on *Roman* Ground, and for that Reason had forced him to come by Boat into the middle of the River to make the Peace, concluding that the Emperor retained still the grudge in his Mind, drew off his Men to a place that was almost inaccessible by reason of Mountains and Woods, and thence expelled the *Sarmatae* who had there feared themselves. In the mean time such of the *Thervingi* as were permitted to pass the River, wandered upon the Coasts, almost starved, by reason of the Cheating tricks practised against them by the *Roman* Officers for Gain, and *Lupicinus* perceiving their just fence and indignation, for fear they should Mutiny, sent a Party of Soldiers to drive them on faster. The *Greuthungi* perceiving this to be a convenient time, when the Soldiers were thus employed, and that the Vessels went to ply to and again to hinder their Passage, were removed, took the opportunity, and got over by Boats patched together as well as they could out of hand, and fate down at a good distance from *Fritigern*, who being a Cunning Man, that he might not give any Cause of suspicion to the *Romans*, and yet not want the Assistance of the other Kings upon occasion, marched slowly towards *Marcianople*. There fell out a mischance which added Oyle to the former Flame. *Lupicinus* having invited *Alavicus* and *Fritigern* to Dinner, left the ordinary sort of Barbarians should press upon him for Victuals, he ordered a Guard of Soldiers to keep them off from the Gates of the Town, whither they desired they might be admitted as Friends, to provide them Necessarys. Being thus Repulsed, they came to outrageous words with the Inhabitants, and from words to Blowes, so that the *Goths* fell upon the Party that was appointed to watch the Gates, killed them, and stripped them when slain. *Lupicinus* herewith acquainted, in the midst of their merriment, caused all the Attendants which waited on the two Guests to be straightway knocked on the Head; the Report whereof flying to those without the Walls, drove them into a Rage, as concluding that their Kings should be detained Prisoners. This *Fritigern* earnestly pressing, and fearing indeed that he should be detained as an Hostage, alleged it was necessary he should go, to quiet their minds and allay their Fury. Both he and his Companion got away, the *Roman* General being now befot with Wine, and were received with great Joy, as utterly unexpected; and to improve the Advantage thence obtained, they fell into Consultation how they might best raise a War and Revenge themselves.

9. The whole Nation of the *Thervingi* upon information of what had happened, were vehemently bent the same way, and with Banners displayed, fell presently upon the Countries, which they Pillaged and wasted with Fire and Sword. *Lupicinus* in a Tumultuary manner marched out, to withstand so dangerous a beginning, but with so ill Success, that Incamping himself at twelve Miles distance from the City, he was by a sudden Attacke of the Enemy defeated, and forced to flye for his

A.D.

375.

Vid. Valentinian
in Ann. lib.
31. p. 442.

A.D.

376.

Sect. 3.

his Life, most of his Men being Cut off together with their Tribunes, which Accident, carried this greater mischief along with it, that the Barbarians were hereby furnished with *Roman* Armes, and made now havock of all things without Controll. When *Valens* had notice of these dangerous Motions of the *Goths*, he was much distracted in his Thoughts what Course to take. He sent away with speed *Vitor* the *Magister Equitum*, to Compole Matters as he could with the *Persians*, about *Armenia*. Resolving then to quit *Antioch*, where he had made his Abode about a year, and go to *Constantinople* to be nearer at Hand; he sent before, two of his Captains, *Prospertus* and *Trajan*, Men more Ambitious than able for Business, who coming to the place, whereas the Case required, that they should by way of Stratagem and Surprise, Cut off and diminish so great Multitudes as now filled both the Mountains and Champion; they opposed against them the Legions drawn out of *Armenia*, which indeed were Valiant enough, but utterly unable to grapple with such vast numbers of Men. They forced the Enemy beyond the Mountain *Hemus*, and there seizing on the Straits and cragged Rocks, resolved to shut them up, and destroy them by Famine; or at least so long to keep them pent up till *Frigeride* could Arrive with the *Pannonian* and *Transalpine* Auxiliaries, which, at the request of *Valens*, *Gratian* ordered to their Assistance. And *Richomer*, who at that time was his *Chief Domesticarius*, he commanded to hasten out of *Gall* into *Thrace*, upon the same Errand. But by the Endeavours was reported of *Merobaudes*, *Richomer* his Troops forsook him for the most part, that the Borders of *Gall* might not be defitute and exposed; so that he joynd indeed, with *Prospertus* and *Trajan*, but to little Effect, for *Frigeride* was seized with the Gout; or else, as his Ill-willers talked, Counterfeited himself sick, and staid behind.

10. Such were the Disappointments, as to Relief out of the West; and for the *Eastern* Parts, we must not forget, that at the very first when the Rumour of the motions of the *Thervingi*, came to the Eares of *Valens*, he ordered a Party of *Goths* which under Conduct of *Suericus* and *Colias* had been long before received and appointed to Quarter about *Adrianople*, speedily to remove toward the *Hellespont*. But they considering what would make most for their Interest, required Provisions for their Journey, and two days Respite, whereas the *Magistrate* or *Dunwvir* of that City was very much moved, as incensed against them for having wasted the Country adjoining, and he stirred up the Common sort so much, together with the *Fabricenses* or those belonging to the Forge, of which there was there a great Multitude, that they all gathered together, threatening to destroy them upon Refusal to depart. The *Goths* at first were amazed, and stirred not, till provoked both by opprobrious Language and the Missile Weapons; they then fell upon them, killed many, put the rest to Flight, and in the *Roman* Habit (having stripped the slain) went and joynd themselves with *Fritigern*, and with him laid Siege to the City. But *Fritigern*, knowing his People unexperienced as to Sieges, perswaded them to remove (alleging that he had no Quarrel with Walls) and to Plunder the wealthy and fruitful Province; for there they should find no Opposition. Leaving a sufficient power to block up the Town, they ranged all over *Thrace*, where they could get most Booty, their numbers being daily increased by those of their Nation, who having been formerly sold by Merchants, or others, for morsels of Bread, now flocked in to them. Many also who had Skill in Mines, of which there were plenty in *Thrace*, accompanied them for getting of Gold, not able, or not willing, to bear the usual Impositions, and the *Goths* gladly entertained them for the Discovery of the secret places in the Country whither Men of Wealth had retired. Now, without any difference of Sex or Age, did these Barbarians rage against the Persons, as well as Goods of the miserable Inhabitants; the sucking Children were snatched from the Breasts of their Mothers, the Infants killed, and the Mothers abused, after they had seen their Husbands Butchered before their faces; those of puberty were haled over the dead Bodies of their Parents into Slavery, and the old Men, in vain complaining, that they had already lived too long, were compelled to quit their flaming Houses, and follow with their Hands bound behind them.

11. But *Prospertus* and *Trajan* to whom *Richomer* had joynd himself, that it might not be said they would do nothing, moved toward a place called *Salices* near to which, lay a vast Body of the *Goths*, the posture of whom they observed, as they were inclosed with their Waggon, and expected when they would stir, that they might fall upon their Rear, promising themselves much Success in such

A.D.

376.

Grati. spaz-
is diffus.They block
up Adrianople.And cruelly
rage through-
out Thrace.

Sect. 3.

A Bloody
Battle.When Gratian
- the fourth
rune and Me-
robaude were
Confuls.The Barbari-
ans of Scythia
and Jaxa
break allo into
T-ate.They cut off
En-nariv.

such an Attempt. But the Defigne was discovered either by Fugitives or fome other way, fo that the Barbarians kept their Poft, and by Signes gave notice to all their Straglers to return to the Camp; where being Arrived, like fo many Wilde Beasts upon the Prey, they raged to be led out againft the *Romans*, who well enough perceived the difadvantage they were in, both in refpect of their Numbers and the Folly of their Commanders; however, animated by the goodness of their Cause, That Night they paffed without Stop on both Sides, and the Day following came to a Bloody Battel. The Barbarians, having first taken the Oath after their manner, indeavoured to become Masters of the upper Ground; but in this matter the *Romans* were as cunning as they, and fo Refolute and Courageous, that Night alone could put an end to the Controverfy, in which many of them fell, as overpowered by Numbers. The better fort, as they could, they gathered up and Buried; and all the rest were left to be devoured by Fowles, which then had but too plentiful Fare, as appeared by the Bones they left, with which these Fields were covered a long time after. The *Romans* drew off towards *Mortac-nople*. The *Goths* for seven days following, kept themselves amongst their Carriages, not daring to look out, which opportunity the other taking, Blocked up another Party of them in the Straits of *Hemus*, where they hoped they might perish with hunger; for on the other side they were clofed by the *Ister* and Deserts, within a Country destitute of Necessaries; all Provisions being removed into strong Townes and fenced places, which how to Attacque or become Masters of, they knew them to have neither Skill nor Power. These things thus performed, *Richomer* went back into *Gall*, to fetch, as was hoped, greater Supplies of Men, for fo mighty a work as evidently now was Cut out for them. But this was when *Gratian* the fourth time was *Conful*, together with *Mero-baudes*, and *Autumn* now approached, as *Amianus* tells us in fo many words.

12. *Valens* his Ears being perpetually filled with the Noise of Slaughters, Pillagings and Burnings, sent away *Saturninus* with the Horse, to the Relief of *Pro-futurus* and *Trajan*. But at the same time it hapned that all things necessary for Sustainance being consumed, through the Tracts of *Scythia* and *Mesia*, the Barbarians of those parts also were in great Disorder. Often they endeavoured to break their Bounds, but still by the Resolution of the *Roman* Forces were Repul-fed, till driven by extream Necessity, they allured by promises of vast Booty, a number of *Huns* and *Alans* to joyn with them. *Saturninus* was now at Hand, imploying himself in disposing matters relating to the Garrisons and Stations of these Borders; but perceiving the vast Swarms of these People could not be diverted by him and the few he had with him; but that they must be overwhelmed, as by a more violent Inundation of Waters, the more they endeavoured to stop the Current, he made a fair Retreat. And now upon Removal of the Soldiers, a Vent being given, straitway like a mighty Flood, they bore down all before them, and spreading themselves throughout the Coasts of *Thrace*, as far as from *Ister* to *Rhodope* and the Streights; with Rapines, Slaughters, Blood, and Fire, the inflaving of all they thought fit not to dismiss out of their miserable thraldome, and spoyling of all things, they gratified their Ravenous Appetites. In this manner they proceeded as far as a place called *Dibaltum*, where they found *Barzimeres* Tribune of the *Scutarii* encamped with his Legion, together with the *Comiti* and several other Parties of Foot; a Person very well skilled in matters of War. He well enough knowing the Danger he was in, resolved with his Men wedged as close together as could be, to brake through them; and in the Attempt so well behaved himself, that he had escaped, but that, when he was now wearied and disabled any more to maintain the Fight, he was surrounded with Horse, and Cut in pieces, yet not without a great Slaughter first made of the Enemy, which by the valtness of their Numbers was Concealed. Incouraged by this Success, more than they had reason, they went on hunting after *Frigeride*, who by Order of *Gratian* was come into *Thrace*, and had taken up a Post near to *Berea*. But he who was sufficiently knowing how to avoid dangers and preserve an Army, withdrew himself out of the way into *Ilyricum* through Mountainous and Woody places, and in his Retreat was much Elevated by a notable Adventure. He light upon *Farnobius*, one of the Captains of the *Goths*, who then Headed the People called *Tajfal*, which had joyned themselves also to his Nation, having passed the River, when the *Roman* Guards out of Fear were disperfed, as desirous to Share in the Adventure made now by all these Northern People. Perceiving he could make his Party good if he grappled with these Rovers; he fet upon them, killed *Farno-bius*

A.D.
376.Hec Gratian
quatuor &
Mero-baudes
Confulibus eg-
g-antur, Anno in
Autumnus
vergetur.

Sect. 4.

Frigeride kills
Farnobius and
takes his Tai-
fal.In the mean
time the Lac-
tians & Pro-
ple of the
Almans in-
vade also the
Empire.After this the
Germans gene-
rally do the
same.Maximian
and Melloban-
do give them
a great defeat.

bins, and with him had fo treated all the rest, but that he was induced to Mercy, by the miserable Cries they made for Quarter. He took them all alive, none efca-ping, and bestowed them in *Italy*, about *Mutina*, *Regium* and *Parma*, to Till the Grounds. This Nation, as the Historian tells us, was infamous for *Sodomy*; it being their Custom to abuse Boys that were Arrived at Puberty, who had no way to Redeem themselves from that filthy sort of Slavery, but by killing a Wilde Boar, or else a Bear, with their own Hands; a Service performed to the Pub-lick.

13. In this manner was miserable *Thrace* afflicted, when it grew towards Win-ter; and about the same time, other Northern Parts of the Empire had their share in the publick Calamity, occasioned by the *Lentienfer*, a Nation of the *Allemans* neighbouring to *Rhetia*, which broke the League, and invaded the *Roman* Terri-tories upon this Occasion. There was one of their Countrymen, who being of the Emperours Guard, and having occasion to return home, when several asked him what News at Court? Told them, that *Gratian* was sent for by his Uncle *Valens*, to help him to repel those Northern People, which had conspired against the Peace of the Empire; and that speedily he would fet forward to the East. They were Joyful Men at the Report, being as greedy of Booty and Spoil, as any of the rest; and in the Month of *February*, when the *Rhine* was Frozen, took the Opportunity, and fell off spoiling the Country, till stopped by the *Peulantes* and *Celte*, who making Head against them, drove them back; not without confi-derable loss on the *Roman* side. They were forced to Return; but not at all dismayed by this Repulse, they encouraged their Friends and Relations to venture forth ano-ther time; and now generally the *German* Nation knowing that the Imperial Forces were drawn into *Ilyricum* and that *Gratian* was to follow, rose up from all their Villages, and to the Number of forty thousand, or as some who en-deavoured to enhance the Reputation of the Emperour alleged, to that of seventy, confidently poured themselves into the Neighbouring Province. *Gratian* here-very much startled, recalled the Troops he had sent toward *Pannonia*, and mustering such as were in a Readiness in *Gall*, committed them to the Con-duct of *Nannienus* a Sober and Expert Captain, and with him joyned *Melloban-des* his *Comes Domesticonum*, yet a King of the *Frankes*, and a Valiant and Martial Person. These two, though of different Tempers, the one being very War-y and Circumpect, the other greedy of Fighting and impatient of Delay; at a place called *Argentaria*, gave these Rovers a notable Defeat; though at first their Men were affrighted at the Number of their Enemies and began to shift for themselves. Of the Barbarians (fo many in number as we have said) no more than five thousand escaped, through their knowledge of the Woody Country; and such as died in the Field, were accompanied to another World by *Priarius* their King, who had been the principal Incendiary and procurer of the War.

14. With fo great success was *Gratian* sufficiently elevated, and bent now toward the East. Yet encouraged by the Victory, he could not but in his way turn to the Left Hand; and with all Secrecy imaginable passing the *Rhine*, hoped by Surprise wholly to Conquer or destroy this inconstant and unfaithful People. The *Lentienfer* having received frequent Alarms of his Approach, as utterly de-spairing of any other Course, and too too sensible of the miserable reiterated Slaughtering of their Nation, fled with all they could carry away to the Neigh-bouring Mountains, wherethey little doubted but to defend themselves by the steep-ness of the Rocks. But *Gratian* chose out of the Army several Parties, whereof each consisted of five hundred Men, and sent them as it were on Hunting af-ter the Enemy, and though in Skill and Valour these might have the Advan-tage, yet the other were so Afflicted by the inaccessible Precipices, that they main-tained the Fight on even Terms, till Night put an end to the Contention. The Emperour so unexpectedly missing of his Aim, called his Officers together, and it was resolved in Council, no more to follow the former Course, but Block them up and subdue them by Famine. But this could not fo far Affright or Discou-rage the *Germans*, but that sufficiently knowing the Country, they removed their Station from this place to other Mountains, less Accessible than the former. For all this, he still pursued them, and laboured to discover the Passages whereby they had Arrived at the Top of the Hills; which Perinacious purpose of his, had fo great Operation now at last upon them, that perceiving nothing would fatisfie him, but their Destruction, and that by no Difficulties, could he be deterred from

A.D.
376.Argentaria
apud Ger-
manie in Tri-
betis.

Sect. 3.

Gratian forces
the Lacedæ-
monians to beg Peace.Which gains
him much Re-
putation.Frigidus most
thoroughly
reverted out of
rever.Sebastian, sent
by Valentinian
off very many
of the Barba-
rians.

from his Resolution, they begged Peace and obtained it on Condition, to send their Youth to serve in the *Roman* Armies. This so seasonable and otherwise considerable a Victory, incredible it is, how much it advanced the Interest of *Gratian*, who hereby kept in Awe the Western Nations, and facilitated his Designs, as to his Eastern Expedition. And indeed he gained much upon the People by his towardly Disposition, being a Youth well Inclined, Eloquent in Speech, Soldier enough for his time, yet moderate and merciful; though to blame in a fond humour he had of imitating the Emperor *Constantinus*, yet so as not to be Bloody. For as that Prince Prided himself in the Dexterity of Casting Darts, so as in the View of the People, he would kill whole Doves of Wilde Beasts upon the Theatre, nay, an hundred Lyons let go all together, he singled out severally, and killed each with one Shaft alone; so *Gratian* spent too much time in his Parks, in Exercise of the like Nature, and neglected his great and Important Affairs, at such a time, when, if *Marcus Antoninus* himself had Sate at the Helm, he could scarcely have recovered the State out of the miserable Condition wherein it now lay; without great Wariness and some Collegues chosen of equal temper with himself.

15. But having settled the Affairs of *Gall*, as the time would give leave, and the Cases of the several Nations required, and withal, having punished that Soldier who had betrayed his Designs to the Enemy, he took his way by the Fort at the *Happy Tree*, as it was called, and by *Lauriacum* halted to the Assistance of them, in whose Quarrel he was engaged. In the mean time, when *Frigidus* ordered all his matters with great Prudence and Caution, and now was about to fortify the Straights of *Succi*, to wife a Man though he was, and such an one, as if he had not been employed, should have been by all means drawn out of Retirement and preferred, was discharged his place, and *Maurus* a *Comes* appointed his Successor, one of a quite contrary Disposition, rash and uncertain; he who took a wreath from about his own Neck, and put it as a Diadem upon the Head of *Julian*, at his Promotion. In those days *Valens* departed at length from *Antioch*, and came to *Constantinople*, where having staid a little time, he found the People tumultuous, and having given the Command of the Foot belonging to *Trajan*, to *Sebastian*, a very expert Commander, whom he had lately sent for out of *Italy*, he departed to *Melambias*, a Village belonging to the Emperor, where, by Money, good Victuals, and fair words he cardied the Soldiers. Thence he gave Orders for the Army to March to *Nice*, a Station so called, where he understood from his Scouts that the Barbarians having wasted the Countie of *Riadepe* were returned with great Booty as far as *Adrianople*, and for fear of him, having heard he was at hand, with a powerful Army, halted to joyn their Countrymen that lay about *Berwa* and *Nicopolis*. Against them was *Sebastian* speedily sent away with three hundred chosen Men out of Each band or *Numerus*, and using great Expedition, soon arrived at *Adrianople*, to the walls of which when he approached, he was unexpectedly forbidden by the Inhabitants to proceed any farther; for they were fearful that he was suborned, and sent by the Enemy to entrap them; but at length, persuaded to be of another Opinion, they opened the Gates. Having refreshed his Men with what Conveniences the Town would afford, the day following he issued out, with Intention to cut off certain Parties of the Barbarians, which were roving about the River *Hebrus*, and covering himself with the thickness of the Woods and obscurity of the night, he fell upon them undiscovers, killed all that could not make a speedy Escape, and recovered so much of their Plunder, that if you will believe our Writer, neither the City nor the adjacent Plain it self could contain it. At this so considerable a Defeat was *Fritigern* much disturbed; and fearing that the rest of his Country men, that were dispersed, and rifling the Country, should be intrapped by so expert a Commander, he gathered them together from all Quarters, and departed into the Coasts of *Calybe*.

16. While matters thus succeeded in *Thrace*, *Gratian* having by Letter informed his Uncle how his Arms had prospered against the *Allemans*, sent his Baggage away by Land, with his Army passed the *Danube*, and by the way of *Bannonia* (a Town in *Pannonia*) came to *Sirmium*, where having staid four days he removed, and by the said River proceeded as far as the Fort called *Castra Martis*, though all the while afflicted by an Ague, having by the way lost some few of his Followers, intercepted by the sudden Incursions of the *Alans*. *Valens* was not so dull, but that he conceived

A.D.
376.

Ammianus.

Sect. 3.

Valens every-
ing his Ne-
phew goes in
person against
the Goths.Gratian by
Letters de-
fines him not
to fight till he
should come
to his Assis-
tance.But he is per-
suaded to the
contrary.

ceived matter of Emulation upon a double account, both that the *Lentinienses* were quite subdued, and that *Sebastian* had got so much Reputation by the late Action about *Hebrus*. Inwardly nettled at the Fame of his young Nephew, he removed from *Melambias*, out of a Resolution to do something by the repute of which he might equal his Renown; and for this purpose having already in the Field a very good Army, he rendered it yet more formidable, by getting into the Service many Veteran Souldiers, and amongst others of more notable Rank he again employed *Trajan*, who had not long before been *Magister Armorum*. Now was made a Discovery, that the Barbarians intended by seizing on the Straits to intercept the Provisions he had made for his Men; but this he prevented in good time, by dispatching away with all speed a strong Party of Archers, and a convenient Body of Horse. They, thus disappointed, proceeded slowly and cautiously, for fear of being surprized; and *Valens* by his Scouts being misinformed concerning their Number, longed to be at them. Drawing his Army into the form of a Square he marched toward *Adrianople*, and near the Town intrenched himself, where with impatience expecting his Nephew, he was presently informed by *Richomer* his *Comes Domesticorum*, whom he had sent before with Letters, that he was at hand. *Gratian* by these Letters earnestly besought him that he would stay for him, and not by hazarding a Battle thrust himself into so great danger; and upon reading of them he called together his Council of War. *Sebastian* and others importuned him not to delay fighting, *Vidlor* a *Magister Equitum*, a prudent and wary Captain, advised him by all means to stay for his Colleague, and not hazard that Victory by too much haste, which by the assistance of the *Gallican* Troops, there was little doubt but he might obtain.

17. He, as it happens in such cases, when Princes are advised to various courses, took that which most suited his own Inclination, being by some Flatterers persuaded to prevent the Honour which might accrue to his Nephew by the Engagement, and to wear the Laurel alone. While matters were preparing to put in execution what he had resolved; a Christian Priest (*Prebyster*, *Ammianus* tells us they called such) and some others arrived with a Message from *Fritigern*, by which in an humble manner he desired, that he and his Countrymen, who had been driven from their own Seats by fierce and Barbarous Nations, might be permitted to inhabit *Thrace*, and enjoy the Cattle and Fruits there found, which if granted he promised Peace and all good Offices on their part. This the Christian (so he terms him) openly delivered with the rest, but he had other secret Instructions and private Letters from his King, who therein in ambiguous terms seemed to desire of *Valens*, that he would bring his Army into the Field, and awe the Goths by the terror of his Imperial Name, without which they were not to be kept in any decorum. The Messengers were dismissed as persons not to be understood; but not long after on the fifth of the *Ides of August*, in all haste Orders were given for the Army to march; all the Baggage being sent into *Adrianople*, there to be kept with the Governor and Consistorian Counsellors. By noon they discovered the Barbarians making an hideous Noise, as their Custom was, to Battle and the *Roman* Captains put their Army into a posture of fighting. The right Wing of the Horse they placed in the Van, for the left was not yet come up, and as it marched with all vigour and speed some of the Barbarians were affrighted with the Noise, and some of them that lay further off with *Alathem* and *Safraces* sent to the Emperor, and in a show desired Peace. He despised them as an abject and base People, and required those of the chiefest of them to be delivered up for Hostages; but they by feigned Excuses drew out the time in length, and delayed till their own Horse could arrive, which hourly they expected, with a further design, that the *Roman* Souldiers might be spent with the Heat of the Season, now increased by the multitude of Fires which they had industriously kindled throughout the Countrey, as well as starved for want of Victuals.

18. But *Fritigern* further to amuse the Emperor, sent and promised to bring all his Forces over to him, together with all things necessary for the Army, onely he required that some Noblemen might speedily be sent as Hostages to him. The Message being acceptable, *Equitine* a Tribune, a Kinsman of *Valens*, and who had the Charge of his Palace, was designed for one, but he refused the Employment, as having had too much Experience of the Extravagancy of the Barbarians when Prisoner with them, for he had made his Escape from *Dibalunum*. Upon his refusal *Richomer* freely offered himself to it, as becoming a man of Courage and Resolution, who as he was going to the Enemies Camp, certain Archers and others, com-

A.D.
376.

Scct. 2.
Certain Ar-
chiers rally
begin the
Battle.

manded by *Bacurius* an *Iberian* and one *Cassio*, out of a too earnest desire of fighting fell in upon the *Goths*, and through their rashness gave an ominous beginning to the War. For hereby was frustrated the worthy Design of *Richomer*, who was not now permitted to pass, and the *Gothick* Horse being come up under Command of *Alathens* and *Surfaces*, together with a Party of *Alans*, with great violence fell from the Mountains, and bore all down that stood in its way. The *Romans* at the first Onset were overpowered, and great slaughter followed of them, though they made as manful Resistance as could be expected; which procured a Battle of that violence and resolution, that the Historian compares it to a raging and increasing Flame of Fire, as also to a Fight of Beaked Gallies, agitated both by the voluntary Trustion of each other, and the motion of the Sea. The left Wing broke through as far as the Enemies Carriages, and had done more if any Assistance had come; but forsaken by the rest of the Horse, was oppressed utterly by the Numbers of the Barbarians, which so crowded upon them, that scarcely could one of them draw his Sword, or pull in his hand again when once stretched out. The Dust was so great, that it intercepted all prospect, so that none could be aware of or prevent his being killed or maimed by the Enemies Darts, and by so vast multitudes were the *Romans* hemmed in on all sides, that there was no opportunity of flight, which made them out of desperation to contemn Death, and to sell their Lives at a very dear rate, though the *Goths* seemed fully as resolute as they. For If one of them had his Hand cut off, so that he could not use a Weapon, or had his Legs so mangled that he could not stand upright, yet when conflicting even with Death, would he with rolling Eyes and a grim angry Countenance, shew with how great fury and desire of Revenge he was possessed. Through this mutual Contention, and pertinacious Humour, the Ground was all covered with heaps of dead Bodies, and the shouts of those that fought were not heard, by reason of the loud cries and lamentations of the dying. The *Roman* Foot, utterly spent by the toil and heat of the day, having now neither strength, hope, nor discretion left them, and having broken their Pikes betook themselves to their Swords, and like mad men rushed amongst the Multitudes of the Barbarians, till such time as they could not hold their Feet, (so slippery was the Earth rendered by the Streams of Blood that now ran every way) but fell upon dead Carcasses, which by this time they trampled on without horror; so familiar had Custom made the sight, how dismal soever. The Sun was upon his entrance of *Virgo*, and therefore his Heat, added to the weight of their Weapons, rendered their Thirst, as well as their Arms, insupportable.

19. In conclusion, the *Romans* were overpowered, and forced to fly as they could; which *Valens* perceiving, while every one shifted away as privily as he could, he betook himself in great fear and anxiety to the *Lancearii* and those called *Mattarii*, who had endured the shock without giving the least ground; at which *Trojan* cried out, that the Emperour deserted by his Guards would be utterly lost if not speedily rescued. Hereupon *Vitor* with all speed hasted away to fetch some *Butavians*, who had been placed as a Reserve to the relief of the Prince; but by this time there were no such men to be found: So that disappointed he went his way; as in like manner *Richomer* saved himself by flight, together with *Saturinus*, whom *Valens* had preferred to the Dignity of *Magister Armarum*. The Pursuit was vigorously prosecuted by the Barbarians, who spared none that yielded, but quitted those that made resistance; and the flight of the pursued was hindered by the multitude of dead Bodies filling the ways, yet indifferently secured by the darkness of the following Night, at the beginning whereof in the twilight it is thought, the Emperour himself fell amongst the common Soldiers, by the shot of an Arrow: But in what way he miscarried there's no certainty, for his Body was never found, neither was there one alive that could say he saw him, the Enemy hovering long upon the place, as intent upon the Spoil, so that none durst approach it to make any discovery. In like manner *Decius*, one of his Predecessors, in a Battle fought with Barbarians, was cast from his Horse into a Bog, and never could be recovered nor found. Yet was it reported, that *Valens* died not upon the very spot, but was conveyed to a Countrymans House near at hand, which being very defensible by reason of its large Roof, when the Barbarians for some time repulsed knew not the Quality of the Person, and were diverted by thoughts of greater Booty, they set fire to it, and burnt him and it both together. That one of his Attendants leaping out of a Window, and being taken, told the unwelcome News to the *Goths*, (who were much troubled they had not got into their hands the *Roman* Emperour

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The most
dreadful, and
bloudy of all
others.

Wherein *Vic-*
tor's Carriage
is uncertain
how.

* Barbarians
certain, as ap-
pear, from *Vit-*
tor's, *Richomer*, *etc.*
Claudian, *de*
Bello *Gothico*,
l. 6. v. 610.

Scct. 3.
Others of more
fame.

alive) and afterward escaped with it to his Fellow Subjects. After the same manner came one of the *Scipios* to his end in *Spain*, being burnt in a Turret to which he had fled, by the Enemy: And it's certain, that neither he nor *Valens* obtained Sepulture, the last mark of Honour and Respect. Amongst many other Eminent Persons that perished in this Action, *Trojan* and *Sebastian* were very Famous, and with them fell five and thirty others they called *Tribuni Vacantes*, besides other Officers; and *Valerian* and *Equitius*, whereof the one being his Kinsman oversaw the Stable, and the other the Palace of the Emperour. *Potentinus* the Tribune of the *Promoti* was greatly lamented, being a person very acceptable, a young man in the flower of his Age, of singular hope, and recommended not only by his own, but also by the Merits of *Orfilius* his Father, who with approbation of all good men had executed the Place of *Magister Armarum*.

20. It's certain that the third part of the Army hardly escaped, neither did any other Defeat (except that of *Camme*) equal this Overthrow, in the Opinion of *Ammianus*, with whose Relation concerning this War, the Original and Issue of it, most Writers do agree. But as to what he writes concerning *Valens* his envying the Vertues of his Nephew *Gratian*, other Reasons of his sudden fighting may be added. He was displeased that *Valentinian* being made Emperour without the Knowledge of either of them, *Gratian* had confirmed his Election without his Advice, and had shared the Empire with him, as *Emmapius* related in his History; who also alleged this as the principal Motive to his receiving the *Goths* into the *Roman* Pale; and possibly a disagreement about matters of Religion, (*Valens* being a great Favourer of the *Arians*, and *Gratian* esteemed a most Christian Prince by the Orthodox Party) might increase his displeasure. The Defeat is by *Orosius* attributed to the flight of the *Roman* Horse, which by deserting the Legions exposed them to the fury of those Multitudes that overpowered them by their Numbers. What *Ammianus* writes concerning *Valens* his perishing by the shot of an Arrow, is affirmed also by *Libanius*, who makes him to have fallen in the throng of his Soldiers, though he wanted not Horfes swift enough to convey him speedily out of the danger, and his Captains pressed him earnestly by a seasonable flight to escape and preserve himself for better times, and the good of the Commonwealth. But he thought it a thing not by him to be practised, to endeavour to overlive so great an Overthrow, and for a Tomb obtained an heap of skulls Soldiers as fell with him. Yet most other Historians consent to that other Relation, of his betaking himself to the Cottage, and there being burnt together with his Followers. However it was, at this time and place, viz. about eight or twelve miles from *Hadrianople*, he died, now drawing near the fiftieth year of his Age, when he had reigned fourteen Years, four Months, and some Days, on the third or fifth of the *Ides* of *August*.

Valens his
Character.

21. This must be said in his Commendation, that he was a faithful Friend, a severe Punisher of Ambitious Practices, a rigorous Examiner of both Civil and Military Discipline, most careful always and vigilant, lest any through pretence of Relation or Kindred to him, should procure Preference; both as to bestowing and removing from Employments he was rather too slow, a most just and watchful Guardian of the Provinces, for each of which he took as much care as if it had been his own Family; for he industriously set himself to ease them of the Burthen of their Tributes already imposed, and as for new ones he suffered none to be laid. Moreover, if for Tributes in *sterile* Money was to be paid, he was no whit rigorous as to the Summe. To Thieves and Corrupt Judges he was a sharp and vehement Adversary, and in this respect the East was more happy in him, than it had been in any other Prince before him. He was Liberal with a sort of Moderation, as in many other matters appeared, so also in this, that when his Courtiers begged any thing, he would give him that had a title to the Estate time enough to defend himself, and in case it proved his own and he might bestow it, with him that begged it he would joyne some others that were absent, by such disappointment to repress the confidence of those that gaped after the Wealth of other men. Many Cities and Towns he beautified both by raising new Buildings, and repairing such as were fallen to decay. Such were his Vertues, which received on the other side great Allays. He covered Wealth very intemperately, was impatient of Labour, was harsh as far as Cruelty it self, of a clownish Humour, as neither cultivated by any Liberal Studies nor skill of Arms. He cared not who smarted, were but his Designs accomplished; and if he could but fasten Treason, or the Contempt of His Majesty upon any, he far exceeded all Moderation both as to Blood and Confiscations. In this respect his Government seemed

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Vide *Annals*.
Valens in
Ann. lib. 31

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most intolerable, as also in another Effect of the same Cause; for though he pretended to refer all Causes and Questions to the decision of the Laws themselves, and would delegate particular Judges to certain Affairs, yet never suffered heavy thing to be done contrary to his own lust and will. He was choleric and abusive, received all Accusations readily, whether right or wrong. He was slow and unactive, of a swarthy Complexion, and the Pupil of one of his Eyes covered, yet so as it was not much to be perceived. His Limbs were compact and firm, indifferently was his Stature, his Legs bowed, and his Belly something prominent.

22. This Character of Valens his Mind, the Reader may remember to have been sufficiently confirmed by the precedent Account of his Laws, which shew his Humour and Disposition much as it is described to us by *Ammianus*. By conduct of this Author we have traced his Actions so far as related to War, from the death of his Brother to his own decease; but as to the Civil State we must take a further View of what was done by him and his two Nephews and Colleagues. They after their Fathers Death divided the Empire of the West betwixt them, that to *Gratian* fell *Gall, Spain, and Britain*; and to *Valentinian, Italy, Illyricum, and Africa*. Yet was not this Division made at first, and it must be known, that whereas there are extant in the Codes seven and thirty Constitutions, bearing Date from the CCCLXXV Year of our Lord, or that wherein their Father died, to the Year CCCLXXIX, or that wherein *Theodosius* was received as Emperor, there are none which bear the Name of *Valentinian* the Younger, but only of *Valens* and *Gratian*. The mighty Care which *Valens* had for the Provinces, to protect them from Spoil and Rapine, as well of his own Officers as of the publick Enemy, may further appear from the Laws which we have not yet mentioned, and confer much to the fuller understanding of the state of those Times. The very Year his Brother died he directed from *Antioch* a notable Edict to *Modestus* the

*Vide Chron.
Theodosius. ad
An. 375.*

*L. 7. de Tironi-
bus, Cod. Th.
Anst. a Col.
Jul.*

Laws made
by him after
his Brothers
Death.

A 2 Edict
concerning
raising new
Men or Tira-
nia.

Presbiter, concerning the furnishing of *Tirones* or new Souldiers. Herein he declares, that the Burthen ought to lie upon Possessions or Lands, and not personal Estates, although certain Ranks and ranks of Men were liable thereunto, as *Senators, Honorati, Principales, Decuriones, the Officers of Magistrates, or the like*. And whereas there was an Indulgence called *Prototypia*, which who so executed, it was their work to hire or buy these Souldiers, and let them at such a rate, or make the Provincials pay such a Summe of Money for each, he abolishes this Office as grievous and vexatious to the People, when it happened that those whom it concerned had no Sons of their own to put into the Service. In the next place he nulls all Privileges granted to any persons to excuse them from this Charge, that so it might lie wholly upon Possessions; as to which, such as had lost them should not bear the Burthen when the Emolument was gone; and if they had but small Estates, or not amounting to the value of the Expence, as here it is the Custom with us in the *Militia*, two or more should joyn together in the furnishing of one Souldier out, one being at the Charge this Year and the other the next; or if Money was to be paid, instead of the Souldier, each of them was to contribute his share. Then doth he settle and establish the Price or Rate of a Souldier to be six and thirty *Solidi*, and fix over and above towards his Clothes and Expences; which Rate at several times varied according to the pleasure of Princes, or the scarcity or cheapness of things. And for the Encouragement of these *Tirones* and those that sent them, he declares, That when they were lifted in the Army, if they well demeaned themselves they should receive the first Year Immunity from the ordinary *Census*, and having served seven, obtain the same Indulgence for their Fathers, their Mothers and Wives; if so be they served amongst those called *Comitatenses*; but if they lay upon the Borders, or were lifted among the *Ripenses*, then they should have only this Privilege for their Wives. For the *Comitatenses*, as we have said heretofore, were reckoned in place before the *Ripenses*, and greater Strength and Stature was required in one than in the other. And as soon as *Tirones* or new Men were received, they were not presently put into the Army, or mixed with the rest; but to supply the Numbers of such as were missing, he ordains the Army be reinforced with the *Adlocutores* or *Incentivi*.

23. He had Ministers (as we have seen) rapacious and cruel, yet however he himself might be extravagant this way towards particular persons, yet would he restrain his Officers in any courses tending to the detriment of the Provinces. Therefore did he repress *Fortunianus* his *Comes Rei Private*, whom *Ammianus* brands with the Name of a Troublesome Exactor; even in a matter which tended brands

to

Sect. 3.
He represents
the Avarice of
his Officers in
a thing where-
in his own
Gain was
concerned.

A just Edict
concerning
the furnishing
of Souldiers
Clothes.

An indulgence
one concern-
ing Children
of Senators.

Against Abus-
es committed
by Under-
Treasurers.

For the Or-
nament
of Cities.

to the filling of his own Coffers. It happened sometime, that amongst the Papers of persons condemned, or whose Estates were confiscated, some Writings were found which mentioned Debts due to them from other men, though no Bills nor Bonds were to be seen, nor any Witnesses therewith of any such Obligation. By an Edict directed to him he declares all such Notes to be Null in Law, it being calie (as he saith) by such means to make any man ones Debtor. Which Edict is transferred by *Tribonian* into *Justinian* Code, and being by him something interpolated and altered, is accommodated also to the Causes of private persons, no such single Note deserving any Credit to be given to it, no not where the Emperor or his Treasury were concerned. This Constitution bears Date from *Heraclius* in the Province of *Epheesus*, on the fifth of the Ides of August, of which fame Date from the same place he directed another to *Modestus* the *Presbiter* of the East, concerning the annual furnishing of the Souldiers Clothes through his five Dioceses; these were *Thrace, Egypt, the East* strictly taken, *Asiana, and Pontica*; in all which he ordains, that every thirty *Juga* or *Capitations* of Land shall find one Suit of Apparel, except in four Provinces of the East, which he sheweth himself very just and equal, which the Histories of the Times sufficiently make out unto us. For, the other two Provinces of *Thrace*, in particular wherein he declares the number of Thirty is to be observed, were now overrun by the *Goths* and *Huns*, as we have seen. He observes a difference between the Customs of the Provinces of the East; properly so called; for two of them (*Ostrogoths* and *Isauria*) found Souldiers Clothes in kind, but the rest paid Money in the room of them; as *Palestine* amongst the rest, which shortly after was divided into three Provinces. Now we may take notice that these five Dioceses took up the whole District or Share of the Empire belonging to *Valens*, *Valentinian* having in the Division retained all the residue to himself, and therein all *Illyricum*. And hence possibly arose the Disagreement betwixt *Valens* and his two Nephews mentioned by *Eusebius*, which provoked him to receive the *Goths* or *Scythians*, as they are also termed, into the *Roman* Pale. At this same City he was further so indulgent, as to enact by another Constitution this same Year, That the Children of Senators (Male or Female) should not, if born before they arrived at that Dignity, be liable to the *Glebalis Collatio*, although in matters of Privilege they were esteemed Children of Senators, both as to Honour and other Emoluments. Further to discourage Abuses in matters of Money, wherein the Provincials were so very much concerned, he ordained also this Year at *Antioch*, That such *The- saurarii*, or those that served under the Treasurers of Provinces, as should be found faulty in their Accounts, should never be suffered to serve in that nature again, nor yet admitted to any other Service; neither those that were still in the Service be permitted to pass over to any higher Employment, lest having such refuge they might be encouraged to betray their Trust. For there were three sorts of Treasurers having the title of *Comites*: The first was *Illustrious*, viz. the *Comes Sacrarum Largitionum* of the West or the East, as *Titian*, to whom this Title is directed; the second was *Comes Thesaurorum*; *Comes Largitionum*, or *Largitionarius Titularum*, who was Treasurer over the whole Diocese, as that of *Thrace, Italy*, or the like; and then the *Presbiter* or *Proepositus Thesaurorum* in each single Province, whose care it was to receive, keep safe, and transmit the Revenue. Of his great care for the Ornaments and Lustre of Cities, there is further another Law made by him this Year, and extant, though not in that of *Theodosius*, yet in the Code of *Justinian*. It commands, That all *Civitates* of Cities be constrained either to repair their old Houses, or to build new ones, and therein dwell and attend the Services of their Corporations, as well as contribute toward the Populousness and Opulency of the Towns. And if the Inhabitants were not of the *Civitates*, or Corporation, he obliges them yet to repair such Houses as they dwell in, if decayed, and rebuild them if fallen down.

24. To bid Farewell to *Valens*, after his Reign of fourteen Years, four Months, and odd Days; and come to the Administration of *Gratian*. He (as we said before) during his Uncles Life, although his Brother *Valentinian* was declared Emperor, yet governed the Western Parts thereof alone; as appears from the Laws dated for the space of three Years from *Triers* and *Magentiacum* or *Metz*; whereas there are not any that own the other for their Author. After his Fathers Death he continued long at *Triers*, and for about a Years space had *Maximinus* or *Maximus* for his *Presbiter Praetorio*; but to expiate all his Villanies he was then

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*Adiosse illi
Augusti.*

L. 2. de Filii
Dobitibus,
Cod. Th. l. 1.
Tit. 16. Cod.
Jul. 5. sed.
Tit.

A.D.
377.
L. 2. de Mil-
lariis, Cod.
Th. 9. l. 2. Cod.
Jul. 1. ed. 1.
Vid. Gualteri
in loc.

L. 1. de Sena-
toribus & de
Glebalis, Cod.
Th. l. 6.
Tit. 2.

L. 1. de di-
versis Officiis,
Cod. Th. l. 1.
8. Tit. 1. de
Palatinis, L. 1.

L. 8. de Ad-
ministratio-
ne, Cod. Th. l. 1.
Tit. 1. de Mo-
nast.

SECT. 3.

Laws made by
Gratian after
his Fathers
Deaths.One concern-
ing the Tryal
of Senators
in Criminal
matters.And in Civil
Causes.Another concern-
ing Quar-
ries and
Buildings in
Rome.Two more
against Freed
men accusing
their Patrons,
and Slaves
their Lords.

then put to death, when by no other Course, not by Edicts themselves, his Cruelty could be restrained. For, *Gratian* made divers Laws, as is rationally Concluded, for this purpose, that he might Comfort and encourage the *Senate*, which had, as we have abundantly seen, been grievously harassed by his unheard of practices. To this end he directed several of his Constitutions or Laws (called, when to the Senate, *Orations*) which with great Joy and Applause were read in the House. By the first of these we meet with, he gives power to the ordinary Judge of the Province, to hear the Criminal Causes of *Senators*; though he were but of the Degree of *Speculabilis*, whether *Prefect*, *Corrector*, *Confularis*, *Picar*, or *Proconful*, (all which sorts of Provincial Magistrates he reckons up) but Condemn them he could not, but was to report the Matter to the High-er Powers, as either to the Prince himself, or his greatest Officers, *viz.* the *Prefect* of the City, if the Party inhabited in the *Suburbicarian* Provinces; and the *Prefectus Pretorio*, if in the rest. Herein he Acted otherwise, than had done either *Constantine* the Great, or his own Father, For *Constantine* had made a *Senator* punishable in the Province where he committed the Crime, without any Reference to be made to any other: and *Valentinian* ran to contrary a Course, that he would not have any ordinary Judge to have Cognizance of the Crimes of *Senators*, and curbed even the *Prefect* of the City as to this point. Indeed antiently none could judge *Senators*, but those of that Rank, and the *Prefecti Pretorio*, as such, had no Jurisdiction over them. When the *Senate* came to have the Power of judging its Members, it was committed to the *Prefect* of the City, and he continued their Judge till those days wherein the Power of the *Prefecti Pretorio* became so extravagant, and that of the *Prefect* of the City so much decayed; For now within the *Suburbicarian* Provinces, or the County as dwelt within this District, *Gratian* had been referred unto him; but withal as Joynes with him the *Quinguevirale Judicium*, or five other *Senators*, bearing Office at present, or such as had borne Office, who were to be chosen by Lot, and not called at his Pleasure, or Discretion.

25. In such Manner were *Senators* to be judged in Criminal matters, but as to Civil Causes, by another Branch of this *Oration*, he put a difference betwixt the one sort and the other; determining, that in the City and *Suburbicarian* Provinces they should stand to the award of the *Prefectus Pretorio*, the *Prefect* of the City, and of the *Magister Officiorum* when the Emperour commanded it, and in the Provinces to the determination of the ordinary Judge. Having indulged to the *Senators* in a matter so near relating to their own Persons, he farther obliged them to be part also of the same *Oration*, having told them that he had formerly given them leave upon a certain condition, to cut stone out of private Quarries throughout *Macedonia* and *Illyria*, he now adds, that if they pleased to do it, they should neither be burdened with the Expence of Tribute nor Toll, remitting thereby what was due to himself though not what belonged to the Party that owed the Land. Hereby we learn that at the making of this Law, on the Ides of *August* A. D. CCCLXXVI. *Gratian* had still Command over *Macedonia* and *Illyria*, whatever *Zosimus* saith to be contrary; though he had taken his Brother *Valentinian* for his Colleague; but indeed, when *Theodosius*, three years after, was chosen Emperour, then was *Illyricum*, formerly undivided, parted into *Eastern* and *Western*. Having hereby sufficiently encouraged them to fetch Materials elsewhere, by another Law, thought also to have been part of the same *Oration*, he forbade all manner of persons, as well the *Prefect* of the City as other Judges, to raise any new works in *Rome*, except at his own Charge, and without injury to other Buildings, dig- ging up any old Foundations, or making use of the Stones or pieces of Marble, belonging to decayed Works. This same year, finding it was a Custom, and practised, we may little doubt, by *Maximian*, to have Patrons accused *Julian* of Capital Crimes by their Freed Men, and Lords also by their Slaves, by two several Constitutions as now we find them directed to this very *Maximian*, or *Maximus*, he forbids the Practice for the time to come, except only in Cases of Treason, wherein the Emperours themselves are concerned, and that under pain of Death, to be inflicted on such Accusers by the Sword or by Fire. As to the Emperours themselves an exception might justly be made, for if Slaves might be heard and Examined, against others, in behalf of their own Lords,

A. D.
376.L. 13. de de-
cationibus
prieip. cod.
To lib. 9. tit.
1. de offi-
Jof.L. 2. cod. Jof.
de Senator.
lib. 9. tit. 24.L. 8. de Mate-
riae. Th.
lib. 10. tit.
19. de offi-
Jof. lib. 9.
tit. 1. de
honoris &
imperatoris.L. 19. de opri-
bus publicis
Th. lib. 9.
tit. 1. de
offi- Jof. lib.
9. tit. 1.L. 1. 2. de
Prieip. Crimen
May Brito Cod.
To lib. 9. tit. 1.
de offi- Jof. lib.
9. tit. 1. de
offi- Jof. lib.
9. tit. 1.

SECT. 3.

An Edit a-
bout false Ac-
cusations.

much more ought they to be against any whatsoever in behalf of the Common Lords or Fathers of their Country. By these Constitutions we find in such Cases, the punishment of Freedmen and Slaves, the same; for though the former were now Free, yet their Ingratitude was the greater. So much was this fillemis abhorred by the *Romans*, That Slaves could not be so much as heard against their Lords, but presently were hurried away to Punishment, which formerly was the Opinion and Practice of *Constantine*, as afterward of *Arcadius* and *Honorius*, though *Theodosius* was of another mind; for he admitted them to Proof, and yet, after their Evidence subjected them to the most severe Sentence, admitting the Treachery, but hating and punishing the Traitor. The most antient Emperours abhorred both of them in such a measure, that though they produced Writings, and had prepared Evidence for Tryal, yet they denied Slaves all Credit, Audience and Access. But *Maximian*, as *Ammianus* tells us, in his enormous Cruelties, was wont to torture Slaves, to make them testify against their Masters, so that these Laws seem directly intended to give a stop to his proceedings; which, when neither they, nor any other Courts could effect, the Sword upon his Throat at last put a stop to his Career, after he had been *Prefectus Pretorio* full four years.

26. By another Edit directed to *Maximian*, this Tartareous Inquisitor (so they style him) *Gratian* took Care to prevent the frequent and rash Accusations of Forgery; by a Course much more full of mildness and Humanity, than had been practised, at least as he thought, in former times. By the more antient Law for prevention of such malicious or rash Accusations; it was provided, that after a convenient space granted to the Accuser to deliberate what he was about, if he would enter a Criminal Action, he should by Writing oblige himself to make good his Accusation, or undergo the *Lex Talionis*, and suffer the Punishment himself, due to the Crime he had objected. So the Law stood before the time of the Emperour *Antoninus*, who took another Course by remitting the matter to the Office and Discretion of the Judge, to consider whether the Accuser laid his Accusation with an undaunted and resolute mind, in which Case he might remit the Necessity of the Obligation; or with a rash and disturbed Spirit, which if he perceived, he might give him space to consider, and then require the Obligation. But in after-times, the Judges unmindful of their Duties in this point, out of a negligent and severe humour, neglected both the one Direction and the other prescribed by Law, and neither requiring the Obligation, nor granting space to deliberate, as soon as an Accusation was laid on any, they hurried on the Accuser, and gave no time for Passion to vent it self; but made advantage of it to the destruction of the Party. *Constantine*, by a most Elegant Law, took away this Abuse, by retrenching a necessity of the Obligation though formerly he had been of another mind, and so the Matter stood till it came down to *Gratian*, who by a new way yet more accommodated to the antient Laws, endeavoured to put a stop to this mischief. "When first mention is made of Forgery, he ordains, that the Judge give the Accuser his Choice, whether he will proceed against his Adversary by the way of a *Civil*, or of a *Criminal* Action, and to grant him a competent time to consider (which *Tribonian* in transcribing this Law hath omitted in *Justinian's Code*) and this not only to him whose only designe it was to accuse of Forgery, but to him also that in another Cause did this by the by, as when they were upon Tryal of another matter, which being offered to be proved by Writing, the Party should say, that the Writing was forged, and such he would prove it to be. If the Accuser thought good to proceed in a Criminal Action, he takes away the necessity of the Obligation to the *Lex Talionis*, as too severe, and fit only to be required in certain Cases, in this as all other Disputes, both Words and Deeds being to be valued and esteemed according to the quality of the persons concerned. He gives this Reason, that it is more agreeable to the Authority of the Judge to punish a Party offending according to the antient Laws, than to take his Measures from any Obligation, or Convention of the Parties; and he Confirms it by two Examples. The first is taken from the *Cornelian* and *Julian* Laws, concerning publick Judgments which require Criminals to be accused, and Forgeries punished without any mention made of such an Obligation; and the second is the Rescript or Law made by *Antoninus* and lately mentioned; both which Examples had never been known, had he not made mention of them in this Edit. In the last place

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A. D.
376.Olim foverit
Rip. de pene
nullis quibus
reges in Domi-
nium nisi de In-
cella. Ioffia
Julius &
Maximianus
canones de
dulleris inter-
cedendo foverit,
ut in adulteri
quodam Jere
in caput Du-
mianum tur-
queretur Iux-
ta sed in qua-
fione fupri
Jof. ad verba
dominus ter-
menis inter-
rogari non po-
terant ad di-
finitio sui
Pavlanus
in L. 17. de
de quodam
vide Pafis in
Ann. p. 365.L. sit Ad li-
con Corallian
de Jof. p. P.
Rome 16. Jof.
Maj. cod. Th.
lib. 9. tit. 19.
L. panti Cod.
Jof. cod. tit.
bice de jura-
q. Vnde Notae
& Confo. in L.

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he ordains, that if so be the Accuser would resolve to prosecute the Accused in a Civil Action, the Duty of the Judge should be, not to Condemn the Party cast, in more than the Victor was endangered, but yet when the Trial was past, then to exert his Authority in punishing either Forgery or false Accusation, as the Nature of the Cause should require.

He takes care
that Gall be
furnished with
fit Professors.

27. *Gratian* lying at this time at the City of *Trier*, took Care that the Cities of *Gall* should be furnished with fit Professors, by a notable Edict directed to *Antoninus* the *Prefectus Pretorio* of that *Dioecesi*. "He commands that Rhetoricians and Grammarians, both of the *Attick* and *Roman* way and Learning, be instituted in every *Metropolis*; by *Attick*, as afterward he explains himself, meaning *Greek*; for *Athena* as in former Ages, so also in this whereof we write flourished with the Profession of good letters, as appears by many Testimonies. Here Studied *Julian* the Apostate, *Procerlius*, *Majonius*, *Hemerius Libanius*, and others; of Pagan Persuasion; and of Christians, *Gregory Nazanzon*, *Basil of Caesarea* in *Cappadocia*, and *John Chrysostome*; and indeed, the Youth was sent from all quarters to this still flourishing University, as I may term it. But, Persons that are of *Franco-Gallick* Original here move a question, what need there was, that *Gratian* should take this Care? seeing Learning already flourished in *Gall*, which Antiently was furnished with many Academies and Professors. They Cite what *Cato* said of old, concerning the Acute manner of Speech of this Country, with whom *St. Hierome* Accorded, when he wrote, that it always abounded with most Eloquent Men. They urge the old Contest concerning *Greek* and *Latine* Eloquence before the Altar at *Lyons*, and hint to us the Account of Learned Men, and especially of Rhetoricians given by *Pitheus* in his Preface to *Quintilian*. They tell us, the Designe of *Constantius Chlorus* is sufficiently known concerning the School of *Augustodunum*, over which he set *Eumenius*, whose Oration concerning the Erecting of Schooles, is still extant, when before this, there was an Antient Academy at *Masilia*, and another at *Adna* under *Tiberius*. Moreover, *Symmachus* acknowledgeth, that he received the Rudiments of Rhetoric from an old Man that Inhabited, or was borne near the *Garnma* or *Garonne*, and how much he was beholden to that Country, upon this Account. Nay, from the same *Symmachus*, who lived at this time, it is evident, that under *Gratian* himself, the Studies of *Gall* exceedingly flourished, and that thence, Rhetoricians were sent for to *Rome*, as *Palladius* amongst others. The Professors of *Bourdeaux* are moreover known, as commemorated by *Ansonius*, who speaks also of *Toulouse* and the Schoole of *Narbone*, as also of *Vesontio* and *Lyons*, all which, say they, were famous before this Constitution of *Gratian*. They themselves answer for him, that though there were many Schooles in *Gall*, yet being much taken with the *Gallick* Eloquence, which also he had himself imbibed, and daily, where he lived, Converting with Learned Men of this Country, he resolved yet farther to Promote it, as much as possible, first by Ordaining Professors in all notable or most Populous Cities; for by *Metropoles* in this Law they will have them meant, and not the word strictly taken for the Principal in all Provinces; the number of which, yet at this time they say increased. But the principal Reason they assigne is, because *Gratian* now resolved to appoint fixed and constant Salaries to the Professors out of the *Fiscus* or Treasury, as *Constantius Chlorus* appointed an Allowance to *Eumenius* out of the Revenue of *Augustodunum*.

28. And indeed, the Cities in the Provinces were wont to pay Professors their Wages themselves, and *Gotthofred* tells us, that by *Fiscus* may well enough be meant the Revenues of them, so as this Law may be thus interpreted, that *Gratian* would have them to maintain their Professors; but by a certain Allowance now prescribed by him, not left at random to their own Discretions, who, he might presume, would make the best market they could one way, as *Ansonius* complained, and *Libanius* particularly, concerning the Rhetoricians of *Antioch*. He thinks the Designe of the Emperor was to leave the Election free to the Citizens: but to assure the Professors a constant and certain Maintenance by his own appointment, as *Constantius* before him ordained the Corporation should give Salary to none, but whom he appointed. Now the Allowance set by this Law, is, to the Orators twenty-four *Annone*, or daily Provisions for so many Men, and to the Grammarians twelve, being a smaller Number; but to a Rhetorician of the City of *Trier* (at this time of *Gratian*, the *Metropolis* of *Gall*, and the Seat of the Emperours and of the *Prefecti Pretorio*

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L. 11. de Me-
ritis & Proxi-
morum det. 10.
Celi. Jan. Cedi.
Tit. lib. 13. tit.
3. de off. 1. Cedi.
36.

Vide Gotthof-
red. in d. L.

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Pretorio in that Country) he assigned thirty, to a *Latine* *Grammarians* twenty and to one of *Greece*, twelve; and that out of respect to the eminency of the place. But here we must needs take notice that but two sorts of Professors are mentioned in this Law, *viz. Rhetoricians* or *Orators*, and *Grammarians*; for as yet in *Gall* there were none that professed Philosophy, or the laws, to learn which the Youth travelled to *Rome*. But we are not by *Grammarians* to understand such as taught the first Rudiments of language only; their Province extending much further, as including almost whatsoever there was of more Polite literature; and to be sure *Philology*; although in this Edict they be set after and allowed less salary than *Orators*. So much for the Edict it self which we find directed to *Antonius Prefectus Pretorio* of *Gall*, as several others are, who two years after was preferred to the same dignity in *Italy*, and was in *Gall* succeeded by *Ansonius*, whom *Joseph Scaliger* by a mistake would substitute for him, and, erroneously, have the Name of *Antonius* to be blotted out. "The Emperor tells him he will have the former Rules observed throughout all the *Dioecesi* committed to his *Magnificence*; whence is observed that to the *Prefect* of *Gall* at this time did only one *Dioecesi* belong, though the *Prefecti Pretorio* otherwise had several under their jurisdiction, as we have seen heretofore, and three sometimes under the disposition of him of *Gall*, *viz. Gall* it self, *Spain*, and this Island of *Britain*. But *Spain* at this time was governed by a *Proconsul* of its own, and was subject to no *Vicar*, and not under any *Prefect* (as the very name of *Vicar* doth import) though shortly after it returned to that form of Government, as appears both from *Eusebius* and *Sulpicius Severus* his History. And *Britain* probably was from the time of the General *Theodosius* under the same sort of Officers, which may be guessed partly from the Example of *Spain*, and partly from this Law, which gives to the *Prefect* of *Gall* but one *Dioecesi*. So that they are much deceived who think the Administration of one *Dioecesi* below the Dignity of *Illustris* Persons. For the *Prefect* of the City of *Rome* had but one *Dioecesi*, *viz. the Suburbicarian* Regions lying within an hundred Miles; and after these times no doubt there is but that *Prefecti Pretorio* were content with one *Dioecesi*, as under *Iulianus* he of *Aspick*.

He gives the
Prefect of
Rome place
above others
in the City.

It kind to the
Dignities.

29. At this time was *Rufinus* *Prefect* of *Rome*, to whom *Gratian* directed another Edict of this year, whereby he gave him precedence over all other Dignitaries in the City. He staid not much longer in his Office, being in the latter end of the year succeeded by *Gracchus*, who continued *Prefect* also the year following. To this *Gracchus* is directed a Law, said to be had in *Seldens* Copy, dated in the first of *December*, which forbids "That any man be judge in his own Cause, for the same reason that no man can bear witness in his own behalf. The Emperor decrees it generally so, as no sort of Person excepted, not *Maximinus* himself who is thought to have been principally aimed at in this Constitution also, upon report or consultation of *Gracchus*, now *Prefect* of that City, wherein several ill things were at this time reformed, and particularly relating to Religion. Now indeed there seems to have been much insolence and severity used by Judges; and possibly by the Example or Procurement of *Maximinus*. For, *Gratian* not long before this in the same year found reason to proceed further for the liberty and honour of *Curiales*, or the Officers of Corporations, invaded doubtless by some who executed authority over them; which were no other than the Governours of Provinces. He sent an Edict to the same *Antonius Prefectus Pretorio* of *Gall*, whereby he commands "That all *Decuriones* be free and exempt from the *Fiducule* and *Tormenta*, although any of them had spent the publick money, or had demeaned himself fraudulently and extravagantly in a publick Office; for although great care ought to be had of "Tribute or publick Money, as also of the publick Discipline, yet might they be established by others, besides bloody means. But from this Immunity he excepts Persons guilty of two sorts of Crimes, whereof the one he expressly declares to be *Treason*, and the other not to be spoken of, but thought to be in degree and importance next unto it, as namely the crime of *Magic*. He also distinguishes between *Fiducule* and *Tormenta*, and these they called *Plumbate*, from the troaks of which he will not have guilty or criminal *Decuriones* to be exempt, which Privilege yet was afterward indulged them in the East, but again not long after revoked, and the old Law introduced afresh. Yet by this Constitution he grants this Immunity to ten of the chief of them, and he wills also that it be moderately used towards the rest that were subject to this pain, as not to be inflicted but upon highly criminal persons and Publick Debtors. Those *Plumbate* however were leaden Bullets tied to Whips or Thonges, wherewith some were corrected for amendment, and others punished, so far, as often death ensued thereupon.

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L. 3. de Offi-
Prefecti. Visi
Celi. Tit. 1. 1.
tit. 28. de 6.
Celi. Jul.

L. Unie. Ne is
sua causa quis
iudicet. Celi.
Tit. 1. 1. tit. 2.
D. iudicet. hoc
L. in Celi. Jul.
in L. 4. tit. 1.
tit. 6. L. 10.
de iustit.

L. 2. de quesi-
tione Dat. 15.
Celi. Offi.
Tito. Celi. Jul.
Tit. 1. 1. tit. 35.

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They approach Perinthus.

They face Constantine.

Julius in the Eastern Parts out of fear of their joying with them puts their Country men to the Sword.

Aeneas Marc'dist concludes his History.

His Birth and Breeding.

wounds; when Day came they were much distracted in their Councils what to do, but at last resolv'd to seize upon *Perinthus*, and breaking up their Camp laid all waste in their Passage; which as soon as they within *Hadrianople* perceived, by those they could trust, with all diligence they hasten'd away with their Wealth as they could, not by the Common Roads, but by-ways to several Quarters. Some towards *Philippopolis* and so to *Serdica*, and others towards *Macedonia*, thinking about those parts to find out *Valens*, of whose Death they had not received the least intimation. In the mean time the *Goths* with the *Huns* and *Alans* their Confederates, two stout and Warlike Nations, which *Frigitern* by great promises of Booty had cunningly drawn into their Party, encamp'd themselves before *Perinthus*, yet smarting with what they had felt before *Hadrianople*, they dreaded so much as to approach the City; but wait'd that fertile Country far and wide, the Inhabitants whereof they either took or killed. This done, they pass'd on towards *Constantinople* in four square Bodies, for fear of being surpris'd, hoping to be Masters of the great wealth they knew to be in that City. But so Providence order'd it, that when now they began to press toward the Gates, a Party of *Saracens* lately sent for thither (as that People was more dextrous in sudden Attacks, than in set and pitch Battels) fell out on a sudden upon them, and after an Earnest Dispute came off on equal Terms, though by a strange Fate committed by one of their Number, they seem'd to have the better of it. A man with long hair hanging about him and all naked, but his Privy parts, with an hideous noise, and a Dagger in his Hand, ran into the midst of the *Goths*, killed one of them, and setting his Mouth to the Wound, suck'd his Blood; with which so Prodigious a Spectacle the Barbarians were quite daunted and in a far different humour than formerly, began to consider the State they were in, and march'd very warily. For, perceiving the great Compass of the Walls, (by reason of so many Islands taken in) the strength of the Fortifications they had made upon the Strait, and having lost more Men than they had killed, they departed through the Northern Parts as far as the Foot of the *Alpes* then called *Julie*, but to Antiquity known by the Name of *Veneta*.

34. Yet by this their bold Attempt, they brought more mischief upon others than their Country men, than upon themselves. For when it was nois'd up and down how miserably *Thrace* had suffer'd by them; the Eastern Provinces began to quake and tremble, as expecting the Storm would presently be at their own Doors, which caus'd *Julius*, a *Magister Militum*, beyond the Mountain *Taurus*, to venture upon a safe and wholesome, though sharp and severe Course, to prevent so great a mischief as might happen. There were multitudes of *Goths* dispers'd also through divers Cities and Castles of these Quarters, though headed by *Roman* Officers; a rare thing, *Ammianus* writes, in those times. For fear they should rise and side with their Countrymen if they came that way, he thought it safest by secret Letters to their Officers, to Order that they should all be put to the Sword on one and the same day, when under colour of receiving their Pay, they were drawn out into the adjacent Fields; by which Prudent Council, Executed without either Noise or Delay, the Eastern Provinces were deliver'd from very great Dangers. So *Ammianus Marcellinus* ends his History, which being a Soldier by Profession, and a Greek by Descent, from the Principality of *Norva*, he had, according to his Ability, he saith continued till the Death of *Valens*, a work which should pretend to tell Truth, as never to his knowledge, suppressing any thing by Silence, or enlarging Narration by any Lies. He ends it with Advice, so such as flourish'd with Learning, and whole Age render'd them more proper for it, to write what remain'd; and if they thought fit to undertake the Task, he desires them to wet their Tongues, (so his Expression is) to a greater Style.

35. This is all at parting, he saith of himself; but sensible of the Assistance he affords us to the History of the Age, whereof we write, we cannot, out of gratitude to his Memory, so take our Leave of him. He was born at *Antioch*, and we have ground to believe, of Noble Parentage, serving the Emperor in his Youth, as *Domestick Protector*, to which Employment few or none but the Sons of *Duces* and *Comites* were admitted; and we are told, that *Constantinus Chlorus* and *Jovian*, who were afterward Emperours, as also *Gaudens* the Father of *Aetius* took thence the Rise of their Military Employments

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His Employment.

He writes his History at Rome.

Liberian his Letter to him.

His History was published in parts.

ments and Preferment. It was the Ambition, as we have seen by the Laws, of all other Soldiers, even of the *Veterane* or *Emerite* to be advanced to the place of *Protector*, which *Ammianus* arriv'd at, even in his Youth. Now, whereas it was the Custom for some of these *Domestick Protectors*, to Attend for the Security of the Princes Person, and others were sent with the *Magistri Militum* into the Provinces; *Marcellinus* was by *Constantine*, as he writes himself, order'd to Attend *Ursinus*, the *Magister Equitum* in the East, with whom he return'd to *Milan* and followed him into *Gall*, to suppress the Tyranny of *Silvanus* which happened in the year CCLV. And when *Ursinus* was sent back again into the East, our Historian did not forsake him; where, in what Battels he was present, at what Sieges, what Dangers he incur'd, and how otherwise employ'd; He himself relates, and we from him have already shewn. After the Death of *Constantine*, he went in the Expedition of *Julian*, against the *Persians*, and therefore being an Eye-witness of what pass'd, we have much more reason to follow him in our Narration of that War, than *Zosimus*, or any other. During the Reigns of *Valentinian* and *Valens*, what Course of Life he follow'd, cannot well be told; but when the Empire was devolved upon *Gratian*, *Valentinian* the second, and *Theodosius*, he left the East, and went to *Rome*; whether or no call'd by the Emperour, is uncertain. However, he made no Advantage of the Place, for indulging a Luxurious or Idle Life, as most Persons did, that there chose to sojourn; but apply'd himself to Study, and the Conversation of most knowing Persons; as sufficiently is known from the one and thirty Books of History which he wrote.

36. That he wrote this History: at *Rome* appears from several Evidences; as from his severe Invectives he makes against the Behaviour of the Citizens; of which he takes notice and not that of other places, however virtuous enough. He refuseth to set forth the Calamities of that City, left what happened to *Phrygius* should fall to his Lot, who taking for the Plot of a Tragedy, the Siege and loss of *Miletus*, which was a Colony of the *Athenians*, was by Decree of the People of *Athens* heavily censur'd. But to convince his living at *Rome*, *Valerius* who has made very learned Annotations upon him, produces a Letter out of the *French Kings Library*; written to him thither by *Liberian* (that eminent Sophist of this Age) which because it contains matter tending to the Renown of our Author, he thought fit to exemplify, and we cannot but take notice of what's therein contained. "He begins with congratulating with him that he was at *Rome*, and with *Rome*, that she was possess'd of him; him, for that he dwelt in that City, the like to which the world could not shew, and her, because she had him, such an Inhabitant as was nothing inferior to her own Citizens, however defend'd from no less than *Heroes*. He tells him it would be very much, if he, there hearing others recite their works, as the Custom was, should in so great a City himself keep Silence; for as much as *Rome*, even at that time, had also her Orators, who not at all degenerated from their Fore-fathers. But, he saith he had heard from such as came from *Rome*, that He also had published, or recited some of his History, which was divided into several Parts; and he perceived that the Applause he had got by that, invited him to the publication of the rest. Moreover, that *Rome* it self Crown'd his Labours, and the Judgment of the whole City was, that as He excell'd some, so he was not out-done by others. He adds, that things of this Nature, did not only grace a Writer of Histories, but gave Repute also to the Country that brought him forth. And he bids him proceed, to recite what was behind, and receive that Admiration and Applause which he deserved, and not be wanting to what redounded to the Commendation both of himself, and of *Liberian*, and others of the same Original with him. At last, with Wishes for the continuance of his good Fortune, he bewails his own mis-hap in losing his only son, no ill Child of a good Mother; although she was not of free Condition.

37. This notable Letter of *Liberian*, not only proves *Ammianus* to have liv'd at *Rome*, but also, that by Birth he was an *Antiochian*, to which City, how kind he was, sufficiently appears, in his defending the Inhabitants from the Invectives even of his Belov'd *Julian*, and the Crimes fasten'd upon them, in his *Mispogon*. His History we see by *Liberian*, was published in Parts; and, indeed, the twenty seventh Book not till after the Death of *Gratian*, and the Destruction of *Maximus* the Tyrant; and he mentions *Neoterius* the Consul, who bore

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Vide Valerium in Pref. ad Historiam Ammiani Hilarii, Præmissa.

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The Excellency of it.

not this Office till the Year CCCXC. But in his two and twentieth, he speaks of *Seraph* his Image as yet standing, which was, by an Edict of *Theodosius*, demolished in the year following *Neothieris* his Consulship. Of the worth and Use of his History, too much cannot be spoken. For the Matter thereof, both as to the Argument, Choice and Disposition, and his Judgment and Fidelity therein, it yields to none whatsoever. His words (however) are most of them *Latin*, but the Phrase is *Greek*; and it must not be denied, but it is harsh, and his Style affected, not suitable to that of an History, which should ever be gentle, plain, and simple. But most to blame, is his Affectation of a *fancie* of Learning, a Vice as *Valerius* well observes, incident to those who betake themselves into late to Study; which makes him break out of the Path of his Narrations, into idle vain and needless Excursions, about the Causes of Earthquakes, Comets, and the like, so as to nauseate the Palate of any one, but meanly skilled in the Delivery of Truth. However, the Faults of his work, are far overmatch'd by the great Virtues thereof; which commend him, not only to those who desire to know the *Civil*, but even the *Ecclesiastical* Affairs of the time wherein he lived and wrote. For though by Religion, he was a *Pagan*, with such Candor, Modesty and Fidelity, he speaks of matters relating to *Christianity*, that were it not most evident from many passages, that such he was, one might take him for a Man of our own Belief. The Antiquities of the *Frank*, *Burgundians*, *Alamans* and other Nations, he alone in a manner hath delivered; and if his thirteen former Books had been preserved, though they handled matters much more Concisely, (as therein delivering the History of near thirty Emperours) yet they had afforded us much more light to the knowledge of those dark times. And as those thirteen are lost, the eighteen remaining, though they escaped the Shipwreck, yet underwent to great damage, became so shattered and imperfect, that they deterred many from perusing of them, not only through the Imperfection of the Copies, but the fault of the Publisher, till they fell into the hands of *Lindembrogius*, and afterward of *Valerius*; by whose learned Amendments and Annotations, they have been well restored to their native Lustre.

38. With *Ammianus*, agreeeth *Socrates* the Ecclesiastical Historian, that the *Emperor Valens* being dispatched out of the way in such sort, as no man was certain of, the Barbarians marched toward the Walls of *Constantinople*, and began to destroy the Suburbs thereof. That the People, moved thereat, went out on their own Accord to withstand the Enemy, and every one took what Weapon came first to hand. *Dominica* the Empress, now Widow of *Valens*, gave Rewards to every one that went forth to Battle, out of the publick Treasury, according to the custome of paying the Soldiers; *Mavia* also, the Queen of the *Saracens*, being in League with the Empire, sent a Party of her Subjects to Aid them, whereupon, the People gave them Battle, and drove back the Barbarians from the City. But *Gratian* receiving word of his Uncles death, and of such things as followed thereupon, as well as the occasion thereof, (and the power and practices of the *Goths*, who daily committed some outrageous Act against the *Roman* Interest, and by their Example, drew on the *Huns*, *Alans*, and other Barbarous Nations into the Quarrel) marched into *Pannonia*, with as strong an Army as he could raise, to give some check to their presumptuous boldness. But for that He alone could not be sufficient to grapple with so great difficulties and Necessities as at present the Empire struggled with, he began to consider of whom he should make Choice to be Sharer with him in the Care and Burthen, as well as in the Power and Dignity of the Throne.

39. *Gratian* indeed, having received the Newes of his Uncles Defeat and Death, from *Victor* the *Magister Equitum*, who with a few more had escaped out of the Battle, went presently to *Sirmium*, there to Consult what Course to take to preserve the Western Provinces. Before well he could have the Report, five or six days after his Uncles Death, he sent an Edict to *Vindicianus* a *Comes Archistratorum*, and a *Vicar* in some Dioceses of *Gall* (for it was the Fortune sometimes of these Principal Physitians to be intrusted with Governments and rise to high Dignities) whereby he signifies, that He had repealed by his Letters directed to the *Præfets* of these Districts of *Gall* and *Italy*, a former Constitution which gave leave to *Auriculus* or those that fought for Gold, to pass as many as pleased into *Sardinia*. It seems there was some particular Reason relating to that Island, which occasioned this Indulgence, possibly

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Gratian decides a Controversy betwixt the Prefet of Rome and the Consular of Campania.

some new Mine discovered, and thereupon greater encouragement given than usual. But probable it is also, that this Permission was found inconvenient, and that by Reason thereof, the other Mines within the Prefecture of *Gall* were neglected; for such there were there, and also most famous Gold-Mines in *Spain*, as all affirm that write of that Country; besides what they say particularly of the River *Tager*. In *Gall* this Metal was digged, as in the Mountain *Comnenus* under the *Pyreneans*, in the Country of the *Turboli*, and also in the *Alpes*, as *Pliny* and *Strabo* have delivered; however now, and in these latter Ages, *Europe* hath neglected what the hath of her own, and cared only for what hath been sought, if not dear bought, out of the *Indies*. At the latter end of this same year *Gratian* also thought fit to decide a Controversy betwixt the *Præfets* of *Rome*, and the *Consulars* or ordinary Governor of *Campania*. That part of the Country called *Latium*, and lying near to *Rome*, properly belonged to the Government of the *Præfets*; but either for that he could not be at leisure when need required, or for other Reasons, it had been united to *Campania*, yet so, as to own, and acknowledge still the Authority of the *Præfets*, who, as he received Appeals out of *Campania*, so in things of greater Consequence, was to hear and to determine matters belonging to *Latium* in the first Instance. But the *Consulars* exceeded his Bounds, and so far usurped upon the Right of the *Præfets* of the City, within whose Diocesis *Latium* lay, that by an Edict directed to *Antonius*, *Præfets* *Prætoris* now of *Italy*, the Emperour thought fit to declare, that the *Consulars* of *Campania*, ought not to exceed that Power which was given them in a Place under certain Rules and Restrictions; neither Banish any Persons out of their own Province. By virtue hereof, these *Consulars* could neither Banish into, nor out of *Latium*, the general Rule being, that no Governour of a Province could relegate or Banish any one into any place that was not fully in his own Jurisdiction, nor any person any whither, but who was fully subject to his own Authority.

40. *Gratian* being come to *Sirmium*, gathered together all the Force he could make, and therewith having passed through *Pannonia*, visited *Myfia* and *Thrace*, as far as *Constantinople*, where he took Care for the quiet of the *East*, and the Limit of the *Danube*. But now standing in need of a good Commander, there had been so many lost in the late War against the *Goths*, he pitch upon *Theodosius*, the Son of that *Theodosius*, by *Thermania*, who Commanded as General, with so great Success both in *Africa* and here in *Britain*, a Person who for his skill in War, might well be taken for the Son of such a Father, and whose Dexterity in matters Civil, and relating to Peace, was no whit Inferiour to the other; for he had already given sufficient Testimonies of his Ability, though for the present, by reason of a Faction in *Spain* his own Country, he seemed to be laid aside; or rather underwent a voluntary Retirement. Having sent for *Theodosius* from *Spain*, when the time now for designing Consuls for the following year was come, out of generous Gratitude to his Tutor, or Schoolmaster *Aurélius* of *Burdigala*, or *Bordeaux*, an Eminent Poet of this Age, he declared him *Consul* with *Olybrius*, and gave him notice of it by this Letter,

Out of Gratian's Letter to this Tutor Aurélius, he declares him Consul with Olybrius.

When I considered with my self alone, whom I should name Consuls for the ensuing year, as you know my manner is, as is my Duty, and I am certain your desire, I asked Counsel, (or referred it unto) God, in Obedience to whose Authority I have designed and declared you Consul in the first place, and have sent you the Robe (Trabea Palmata) which Divus Constantius our Father himself wore. I have paid what I ought, and I yet still owe what I have paid.

When *Theodosius* was arrived, he ordered him to command in the Eastern parts, and some there have been who wrote, that after he had received his Command, he engaged against the Barbarians, and got a notable Victory over them, which if true, it had not been forgotten by those more ancient Writers who have endeavoured to set off with Lustre the Life and Performances of this Person. But for certain it is, that *Gratian* finding the Emperour oppressed with manifold Dangers and Inconveniences even near to miscarriage, by reason especially of the Barbarous Nations their pouring themselves into the Provinces; considering that he himself had enough to do in *Gall* with the *Germans*, being but twenty years old; and his Brother *Valentinian* not above thirteen, and there-

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Vide Gratian. in l.

L. 12. de Præf. et Cons. Tit. 40. De præf. et Cons. Tit. 40. De præf. et Cons. Tit. 40. De præf. et Cons. Tit. 40.

The Narration of Socrates the Ecclesiastical Historian Concerning the Siege of Constantinople.

Vide Aurélius Gratianum Paganum.

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Makes Theodosius Emperor.

Composeth the difference betwixt Palatines and Governors of Provinces.

Forbids Appraisals against the opening of Testaments.

Publishes a severe Edict against the Harbours of new Soldiers that fled from their Colours.

therefore unable to manage any publick Business; he clost with the Advice of those who perswaded him to take *Theodosius* in as a Partner in the supreme Power. For this purpose being now at *Sirmium*, he called the Nobility together, and directing his Speech to him in particular, told him he was resolv'd to commit the *East* to his Charge. He gave him thanks for the great Honour he intended him, but by words, endeavour'd what he might to decline the burthen, which he declared too great for him to undergo. However, *Gratian* would not contend with him in Modesty, but whatever the other might do, fake what he thought, and required him to take Patience and accept of it. So was *Theodosius* advanced to Share in the highest Dignity and Power upon Earth, on the sixteenth day of *January*, being thirty three years old. A. D. CCCLXXIX, in the Confulship of the lately mentioned *Aufonius* and *Olybrius*.

41. *Gratian* having taken this good Order for the Settlement and Security of the *East*, and had Intelligence that the *Allemans* had again pass'd their Bounds, and fallen into *Gall*, left *Theodosius* at *Sirmium*, and returned with speed into that Country. For still did he keep to himself, in the threefold Division that was now made of the Empire, *Gall*, *Spain*, and *Britain*. To his Brother *Valentinian* fell *Italy*, *Illyricum* and *Affrick*, and to the Share of the New Emperor, *The East with Thrace*; but not *Illyricum* as *Sozomen* mistaketh. Before he quitted *Sirmium* he took notice of the Differences which were wont to arise betwixt the *Palatines*, or Officers belonging to the *Comites* of the Confulatory, who were often sent into the Provinces upon Errands relating to the publick Revenue and other matters of great Concernement, and the Governors of Provinces themselves. "He declares that doing their Duties in such manner" they were not to be discouraged by the Ordinary Judges or Governours, who were often very severe to them, as those they found to be Spies upon their Actions, and on the other side, not standing now in any fear of them, he yet requires, that if they have any occasion to deal with them, they shall pay them all the usual Respect and Reverence. *Hypatius* was at this time *Præfēt* of the City of *Rome*, of whom *Ammianus Marcellinus* gives this Character. That he was a meek and milde Person and given to Quiet, and he seems to have been so milde, that *Gratian* by an Edict directed to him, rebukes him for it, with a Penalty to be inflicted for the future. Against any Sentence whereby the opening of a Testament was enjoy'd, or for putting the Heir into Possession of the Estate of the Deced'd, there ought by Law to lye no Appeal, because those things admitted of no Delay. To this purpose *Adrian* the Emperour made a Law, that whosoever was found an Heir by Testament, should within a year after the opening of it, be put into possession, and that upon occasion of the twentieth part of Inheritances; left there should be any Delay in the Payment of that Imposition. Now it appears, there was some Default in Judges, in admitting Appeals in those Cases, which meek and good natured Persons were more apt to do than others; to prevent this miscarriage for the time to come, he imposeth a Mulf of twenty pounds of Gold both upon the Party that should make such Appeal, and upon the Judge who should admit it. By virtue of *Adrian's* Edict the Heir need not to sue for his Estate according to the Testament, which if he did, he lost the Benefit of the Edict; but *Justinian* afterward repealed the Edict, and gave Liberty to the Heir to obtain possession, though the year were out; against whom he would not have Prescription, though of a long time, to take place.

42. By the Date of this Law it appears, the Emperour was back at *Trier*, before the middle of *August*; where being arriv'd, *Aufonius* in many words returned him thanks for making him Ordinary Conful, by an Oration, which, in many respects, *Signorius* thinks fit to be perused. But in his way back to *Gall*, he pass'd through *Venetia* and *Liguria*; for, in the Month of *July*, and beginning of *August* we finde him at *Aquileia*, a City of the one, and at *Mediolanum*, or *Milan*, the now beginning to be the most frequented of all Places belonging to the other. Being come to *Aquileia*, he found that the *Tirones*, or New-raist Soldiers, absented themselves, and fought to Desert the Service, and that those they call'd *Adores*, or Managers of Lands in the Country, were wont to harbour and conceal them to offending. This by a Law made at this place, and directed to *Hesperius* the *Præfēt* of *Italy*, he prohibits upon pain to the Concealer of being burnt alive, which Punishment was sometimes inflicted upon the Defectors themselves (so the Law terms them) as appears from *Ammianus*. And for

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Fide Chron.
Theod. ad Ann.
379.L. 1. de Pals-
tatis S. l. c.
R. p. cld. Th.
lib. 6. tit. 20.
Dat. 6. Jul.
de Mors. dñi
c. d. Jul.L. 26. Quam
Appellat. us
rescriptum.
Cod. Th. c. l.
6. Cod. Jul.
sed. tit.L. 2. de Div-
fentibus et
oculatoribus
uran Cod. Th.
lib. 7. tit. 18.
Dat. 6. Nov.
Jul. Aquileia.

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Abates the
rigour of the
Paternal Pow-
er.Theodosius at
Tullianum.

for the time to come, he threatens the Lords of the Grounds shall undergo the same, if these their Officers continue still to offend in the same sort. But as these Souldiers endeavour'd to withdraw themselves from serving the publick with their bodies; so at the same time there were others who would gladly have been excus'd from contributing with their Purles to the finding of Horles. These were the *Navicularii*, of whom we have often spoken, and particularly of the great height to which they were risen through the Indulgence of some late Princes, so as they were not only made partakers of the *Equestrian* dignity by *Constantinus* and *Julian*, but some Senators would joyn themselves to their Body, and now there were some found amongst them who obtained from the Emperors honorary Codicils or Letters, whereby the greater Codicillary Dignities were confer'd on them. Now such as obtained these Titular Honours were wont to be subject to extraordinary charges, as of Souldiers, and Horles for the Wars; though some of them, as those that had discharged Employments in the Prince his Palace, were privileged from them; and to these charges still *Gratian* resolves that the *Navicularii* shall be subject, for all their obtaining the Codicillary or Titular Dignities.

43. About the same time *Gratian* thought fit to abate the rigour of the Paternal Power, which had been already attempted, since the Sovereign Authority was become Christian. This Power at first was so extravagant as to extend to life over Children, which though the Law at length thought fit to lessen, even as to the Persons of those not Emancipated, yet as to their Estates, except what they got by serving their Country, all was wholly in the power and propriety of their Fathers. *Constantine*, the great, thinking it very unjust that obedient Children should be so severely dealt with, took order that their Mothers Estates should be so ascertained to them, that it should not be in the power of their Fathers to alienate them, who should have only the *Ususfructus* during the time of their continuing under their Paternal Authority. But, as Laws are wont to gather force by degrees, so the Law in this point got ground, together with the Christian Discipline, which mollified the Rigour of the former Customs. *Constantinus* confirmed what his Father had done, as to the Mothers Goods, and afterwards added certain Cases, wherein the Estates of Grandfathers by the Mothers side, being left to the Children, should not be acquired either by the Father, or his Heirs. But now *Gratian* by an Edict directed to *Hesperius*, made what was but to be observed in certain Cases to hold good purely and simply, enacting "That not only the Goods of Mothers, but of Mothers Fathers, and Mothers Mothers should be out of the Power of Fathers as to alienation, and that they should only have the *Ususfructus* of them; But as for Estates coming from Strangers, and from Relations in a transverse Line, he left them, as formerly, to be acquired by Fathers. After this, *Valentinian* carried the matter on farther, forbidding Estates got by marriage to be acquired by the Father, and that by an Argument drawn from the Grandfather and Grandmother lately mentioned; as the cases of these are by this Law derived from the Example of the Mothers Goods. At length *Justinian*, by Example drawn from all these Rules, extended the Law to all sorts of Casual or Adventitious Estates, and there it stood at the highest pitch of Indulgence. But *Gratian*, as we said, having pass'd through *Venetia* and *Liguria*; made a Progress also through the ancient *Gall*, through *Rhetia*; and visited those that inhabited near the *Rhine*, the *Sequani*, and *Germania Prima*; by his Appearance in those Parts he restrain'd the motions of the *Suevi* and *Alamans*; and leaving these Countrys in a settled Estate returned to *Trier*, where for some time we must leave him, and attend the Motions and Actions of our New Emperour.

44. *Theodosius*, after the departure of *Gratian* for *Gall*, removed to *Thessalonica* in *Macedonia*. Here we find him on the sixteenth of *June*, by the date of a certain Constitution directed to *Pametratius* his Comes *Rei Private*, of which we must speak upon another occasion. *Zosimus* tells us, that he shew'd himself easie of Access at this place, and that such as came to him upon business from all quarters returned with such Answers to their demands, whether respecting the publick or their own private concerns, as were fit and convenient. But at this time vast numbers of the *Transflavian* Nations, viz. *Scythians*, *Goths*, *Taifals* and others having pass'd the River, and being become troublesome to the Provinces, he made all preparations to drive them out. All *Thrace* they had over-run, and such Garrisons as were there bestow'd in Castles up and down dared not so much

L. 15. de Nomi-
nariis Cod.
Th. Accep. 12.
Cod. Aug. Co-
stantinus Augst.
c. d. Jul.L. 6. de matri-
nis bonis. Dat.
vrid. Cod. Aug.
Dec. 4. Kal.
Sept. Abst. d.
Cod. Jul.L. 12. de Jus-
to Esco. Cod.
Th.
Quaprit. p.
751.

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trary to what they had engaged, he thought it best to mix part of them with the Army that was in Egypt, and send for some Forces out of the Legions of that District. According to the Emperors Orders they marched; and in their way, the Romans behaved themselves very civilly, paying honestly for what they called; but the Barbarians quite contrary, offering violence to those that sold Provisions. At Philadelphia, a place of Lydia, they met, where the Egyptians, inferior in number to the Barbarians, obeyed the orders of their Officers, but the others presuming in their own strength took much upon them. One of them being demanded money in the Market for what he pretended to buy, drew his Sword and cut the Seller and his Neighbour that came in to assist him; upon which accident the Egyptians gently admonished the Barbarians to abstain from such unjust oppressions, which did not at all become Persons that pretended to live after the Roman Laws. But they being too good to be advised asserted, what their fellow had done, by drawing their Swords at the Reprovers, who not able to contain their indignation, fell in with them, and killed of them above two hundred men. Having thus chastised them that remained, and persuaded them to carry themselves more civilly toward such as would take no Affront at their Hands, they proceeded in their March, and the Barbarians kept on their way to Egypt, under conduct of Hormisdas the Persian, son of that Hormisdas who served under Julian in his War against that Nation.

49. The Egyptians being come into Macedonia and taken in amongst the Legions there, no order at all appeared in the Camp; no distinction betwixt Roman and Barbarian; but all went promiscuously together, without any certainty in the Muster-Rolls. And as for the Fugitives it was permitted them, though listed in the Army, to return home, and to send others to serve in their rooms, and yet when the fit took them, to return again to their Colours. But this liberty they enjoyed not without such effects as any one in prudence might justly foretell. For they held intelligence with their Countrymen, and letting them understand how negligently all things were managed on the Roman part, they resolved to make Use of that opportunity which the great confusion in the Army did afford them. Having without difficulty passed the River, (for none there was to oppose them, and those that pretended to have forsaken them, rather furthered their design) they entered Macedonia, whither the Emperor came with all his forces. At Midnight they perceived a great Fire to be kindled, which they concluded to be for the Use of Theodosius and his Followers; and therein being confirmed by the relation they received from Fugitives, they halted strait to his Pavilion, taking their direction from the Fire. Now did most of the Fugitives joyn themselves to their Countrymen, and far more in number thus united they were, than the Romans and such as still remained with them. Yet did they find stout resistance, which served to this purpose, that the Emperor had time to shift for himself and get away; and though his men that he left behind, were all cut off, yet they fell not without an infinite number of Barbarians accompanying them to another world. Had the Northern men used the advantage given them, and pursued Theodosius, as they might have done, they had easily taken him and all the rest; but being rendered Masters of Macedonia and Thessaly by this Victory, they contented themselves with it; neither imposed they any Tribute upon the Towns; but left them as free as they found them. The Emperor, after their departure into their own Country, fortified with Garrisons all the Castles and such Towns as were walled; and then went to Constantinople, where he wrote to Gratian concerning what had happened, and how some speedy course was to be taken to prevent that ruin which impended. Having sent away the Messengers, he then fell upon the Macedonian and Thessalian Cities, which, as if they had received no damage from the late Incurtion, he burthened with the usual Tributes, and so severely exacted the payment, that in a manner he took away what the humanity of the Barbarians had left. For not only were they constrained to pay money; but even the Ornaments of their Women, and all their Clothes, so as our Writer had almost said they had nothing left to cover their nakedness, and all this under the notion of Tribute; inasmuch that every Town and Village rung again with Cries and Lamentations of those, who universally extolled the Barbarians, and called upon them for their help. Such was the estate of Thessaly and Macedonia in these days.

50. However, our Emperor splendidly and as in triumph entered Constantinople, without any respect had to the publick Calamity; and being thither come, made immo-

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immoderate Use of the Delights and Pleasures of that great City. On the other side Gratian was much disturbed at the news he had received from him, and, with as much expedition as might be, sent away considerable Forces under the Command of Bauto and Arbogastes, both Franks by Nation, great Friends to the Roman Interest, free from Covetousness and Bribery; and both very stout and expert Captains. They being come into Macedonia and Thrace, the Scythians who sufficiently understood their Worth, and still remained in these quarters, halted away into Thrace, which formerly they had wasted, and doubting what further course they should take, betook themselves to a Trick (not much unlike to the former) whereby they cheated Theodosius. They sent to him certain Fugitives, of most base condition, to promise him Friendship and obedience in whatsoever he would require. And he very easily admitted, and gave them Credit, not at all instructed by his former Experience of their fidelity; and hereupon more followed, and he received them all. By the Sottishness of this Prince were matters again reduced under the Power of these Fugitives, which Sottishness he increased by his voluptuous course of life. For whatever tended to the corruption of manners and humane conversation, received such encouragement and increase during the Government of this Emperor, that all those that imitated him in his way of living, seemed therein to place all that could make them happy in this World. Ridiculous Mimicks and pestilent Dancers were now in request, and if any thing could contribute toward obscenity, and this wicked and dissolute Mufick, it was practised both in and after his time; for to so great depravity of Manners was the Generality now inclined, that such as came after, imitated those that went before them in this sort of madness. And besides all this, the service of the Gods was evered throughout all Cities and Countries, inasmuch that all who believed there were Gods, were in danger, together with those that looked intently to Heaven, and worshipped such things as they there saw.

51. The last thing related by Zosimus we may easily grant to be true, and whether prejudice raised from this proceeding of Theodosius did not exasperate our Historian and those of his Persuasion, we shall not now enquire; but to make a true judgement of this dismal character he bestows upon him, take in what the Laws and other Writers generally afford us of his Actions, which are the truest testimony that can be given to humane Life. By his Constitutions we find, that from Thessalonica, whither he said he removed after the departure of Gratian, he went to a place called Scopi, whence he directed another Edict to Panratius, concerning the chusing of the Principal of the Office of Comes Domorum per Cappadocian, commanding, "That it should be every year out of the Palatine Officers, as of old it was wont, and not from amongst the *Agentes in Rebus*. This Comes of the Emperors Houses in Capadocia was once under the Command of the Comes Rei Private, although, as we have already seen, in the time of Theodosius the Younger, when his Breviary or Notitia of the Empire was made, he was subject to the *Præpositus sacri Cubiculi*: But why Capadocia should have its peculiar Comes for Houses and Lands there, appertaining to the Emperor, might well be considered. Justinian says that the ground was so excellent, that it pleased exceedingly the foregoing Princes, who therefore bestowed on it a Magistrature of its own, who was nothing inferior to the Civil Magistrate, or *Proconsul*. But yet, how these Possessions came to the Emperors, and particularly why they so pleased them, he doth not express. It's therefore thought, that when Constantine confiscated the Revenues belonging to the Priests, and Pagan Temples (which made several Writers, as Libanius, Eunapius and others discontented and rail as well as Zosimus) he appropriated to his own Use also those that he found in that Province. And how large these Revenues were in this very Country appears, from Strabo his description but of one City and Temple, viz. the City of Comana, and the Temple of Bellona. Comana was a memorable City, in a Valley of that Mountain called Antitaurus, wherein was a great multitude of those they accounted possessed Persons, and such as laboured in the business of Sacrifices. The Inhabitants, being of that sort of Cappadocians called *Cataonians*, were otherwise subject to the King; but chiefly obedient to the Chief Priest, who was esteemed as Lord both of the Temple and of those which ministered therein, who when Strabo was at the place, exceeded in number six thousand Persons, reckoning both Women and Children. Besides, there was much Land belonging to the Temple, of which the Priest received the Revenues; for amongst that People, in Dignity he was next to the King, and most commonly of the same Family. We see then the Emperor, having

secured

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The Objections examined by considering what the Laws and other Authors speak of his Actions.

L. 2. de Palatinis, S. L. 2. de P. Col. Th. v. c. 1.

L. 12. p. 525. Edit. Cas. fab.

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secured these Revenues belonging to those superstitious Uses, might well have large possessions in *Cappadocia*, which also was a Country to good and fertile, that the Prince had a great Breed of excellent Horses there.

52. The next place we find *Theodosius* at, is *Vicus Augusti*, a Place of *Dacia Ripensis*; for, thence he gave forth another Edict to the same *Pancratius*, which in the opinion of Lawyers shewed his Clemency and Moderation. It was concerning that Gold called *Aurum Coronarium* wont, as he expresses in this Constitution, to be given to Princes by the *Curiales* upon three several occasions. The first was out of their love and respect to the Persons of the Emperors, as upon their first promotion, (so they presented *Julian*) or when they were Adopted, (so *Antoninus Pius*) or when they happened to come to their City, or when *Melanius* were sent to them upon some Requests, or the like. But the second occasion mentioned in this Law is, that of Indulgence or Remission of Tributes or Debts due to the Treasury; such as *Gratian* granted at this time, to which we might imagine his Law to have reference, had it not *Theodosius* for its Author. The third and last was upon occasion of Victory or good Success, which was the most ancient and especial occasion; for it was given them in Crowns already made, or for the making of such Triumphal Ornaments; and thence came it to pass, that covetous Generals would catch at all opportunities to Triumph, in expectation of this Gold, which extorted a Law of old, that it should not be given them except a Triumph had been desired. "Upon whatsoever of these occasions it was given, he would have it received in whatsoever form it was brought, whether in Crowns or Images, (as sometimes Images of Victory were presented) and though it had not received the greatest purification by fire; because it ought to come, not from constraint, but a willing mind. These were remarkable Laws made by *Theodosius* in his first year relating to civil matters. *Gratian*, as we said, being returned to *Triers*, amongst other Edicts of smaller concernment, published another directed to *Vindicianus*, his *Comes Archiatrorum*, in behalf of the Physicians of his Household, whereby he confirmed to them two Privileges or Immunities. "The first was that of the *Senatores Adlecti* who enjoyed the Dignity and Prerogative of *Senators*; but were not subject to the Burthens belonging to that Order, as those of *Glabius Collatio*, and the *Prætorship*; and this Immunity he extends also to their Heirs; as on the contrary, if such *Senators* as were obliged to be *Prætors* died before the exhibition of the public Games, their Heirs were bound to be at the Expence. The second Privilege was "That if these *Palatine Archiatri* arrived at the Dignity of *Comites*, which usually they did, that then they should be excused from those they called *Jordid Offices*, or Employments, as were some others of the same Degree. This *Vindicianus* to whom the Edict is directed, is the same we spoke of before, who arrived at the Dignity of *Vicar*, having written a Book of Medicinal Observations for the Use of *Valentinian* and his Sons.

53. But though he was Indulgent to Physicians, he was severe enough to such as were Debtors to the Publick, for the preservation of his Revenue. Most miserable in old time had been the condition of all that were in Debt, whom, as we learn from *Dionysius Halicarnassus* and others, the Creditors had so much in their power, as to subject them to Drudgery, Imprisonment and Torture; which Custom, though introduced by reason of the carelessness and knavery of some, who made no Conscience of retaining or spending what belonged to other men, yet produced such Acts of cruelty and oppression that by the *Julian* Law a *Cession* of Goods or Estates was introduced; so that those who quitted all they had, were not to be Imprisoned nor Tortured for what it was not in their power to discharge. But this, on the other Hand, was in some space of time found to give occasion also to great Inconveniences; for thereof crafty and cheating Knaves made advantage to defraud honest men, by concealing part of what they had; and luxurious Spendthrifts, knowing they could come but to this at last, encouraged themselves in their lavishment and debaucheries. Now as to torturing Debtors, *Constantine* the Great, and his Son *Constantius* did not approve of it. But *Valentinian*, as *Ammianus* tells us, adjudged such to death as were not able to pay what they ought to the Treasury. "His Son *Gratian* now took a middle course, admitting the practice of *Cession* still; but only allowing it to such Debtors as by Providence were reduced to Poverty; as by Robbery, Shipwreck, Fire, or some other Calamity, which they were to prove; otherwise all Dilolute or Malicious Spendthrifts he will have still by severity of Punishment forced

He makes an Edict about the Gold called *Aurum Coronarium*.

Gratian is Indulgent to Physicians.

Severe against Debtors to the Publick.

A.D.

379.

L. 4. de Auro Coronario. Cod. Th.

L. 12. de Modis et Prej. Cod. Th. Dat. 18. Kæl. Oclib.

L. 1. Qui Bona ex lege Julia cedere possunt. Cod. Th. lib. 4. tit. 20.

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ced to the payment of their Debts; which yet *Justinian* afterward did not approve, but being of the opinion herein of *Constantine* and *Constantius*, left this Constitution out of his Code; requiring in case of *Cession* a full proof, or any Oath, that the man was unable to pay; which was agreeable to the ancient Law. And the last remedy remedy left to Creditors is, that if they can find out any Goods or Estate belonging to their Debtors, they may sue for it, and recover such moneys as are due to them from other men.

54. The year which followed, being of our Lord the CCCLXXX, had for Consuls *Gratian Augustus* the fifth, and *Theodosius* the first time. In this Consular mention is made of seven several *Præfidi Prætorio*, viz. four under *Theodosius*, (to whom Laws are directed from *Thefalonica*, *Adrianople* and *Constantinople*, A. 5. and published at *Antioch*) as, *Eutropius*, *Netherius*, *Florus* and *Tatianus*, and *Theodosius* three others, viz. *Probus*, *Helesperius* and *Syngrius*, the Districts of whom lay in the *West*; the Constitutions directed to them being dated from *Aquileia* or said to be published at *Rome* or *Hadruncetum*. To *Eutropius* we find a Law directed this year, whereby liberty is given to the *Illustrious*, the *Præfidi Prætorio*, to impose fines as far as fifty pounds of Gold, in case of heinous Offences. These Fines ordinarily were returned into the Treasury; yet was it in the Power of the Judges to appoint them to some special Use, as to the *Civitas Publicæ*, public Buildings, the relief of the Poor, or other necessary charges, as still the Parliaments of *France* do practise. Hereby *Theodosius* enlarged the power of the *Præfidi*, and about the same time extended it even to the depriving of the Governors of Provinces, or inferior Judges; and degrading them so far, as to the vilest condition of men, if found corrupt and abusing their Power. By removing from the Senate to the state of the vulgar had been usually punished *Senators* guilty of Falshood, especially during the Government of that most excellent Prince *Alexander Severus*; neither was *Theodosius* the first man that brought up this of degrading Judges to the same condition. Before the *Julian* Law, the punishment of corruption in them was that of Exile, and the Value of the Loss sustained by the injured party; but that Law contracted it within these limits of removal from the Senate, and the Value of the damage: yet afterward according to the merit of the cause was the penalty increased. This new Constitution being made at *Constantinople*, seems to have taken its original from some complaint made to *Theodosius* there, who after his Promotion (by confession of *Zotimus* himself) while he lay in that City, had application made to him by many from all places, according to their particular wants, who received such dispatch as was agreeable to their several cases.

55. But, how great a calamity this same Historian raised against this Emperor, or else how slender his judgment was, in that he charges him with weakening the Army and rendering inconsiderable the force of the Empire. *Gothfred* tells us sufficiently appears by other Laws he made about this time, from which it is evident how careful and solicitous he was to restore it to its wonted strength and lustre. About a fortnight after the Date of the late mentioned Edict, he published another to the Provincials of his Territories, whereby he signified out of what sorts of men he would not have Choice made of Soldiers; and this, as is concluded, in order to the carrying on of the *Gothick* War. It being one of the main points to receive such as are fit, and reject others; he declares "He will have in the first place no Slaves, whom the continual practice of the *Romans* forbade to take Arms; nor any out of the meanest Vitualling Houses, or that it was not accounted Adultery which was committed with the Mistresses of such Houses: Nor out of the Companies of Cooks or Bakers; nor such as belonged to the *Gymnæis*, or had pitiful effeminate Employments, or were taken out of the *Ergastula* or working Houses, where those were kept in labour, who assistance, as not able otherwise to live, had condemned themselves to that drudgery. For, there were *Ergastula* not only of Slaves but of those also which were born, or made free, in those Days, notwithstanding the Constitution made by the Emperor *Adrian* for taking them away. Now all these sorts were forbidden to afford *Troops* or New-Soldiers, and that under penalty of finding three dually qualified for one to unfit, and that by Award of the *Magistri Militum*, and according to their Discretion, if intimated to them. Of these *Magistri*, if *Theodosius* now made five, or more, in room of two; for the better management of this great Concern, and other reasons; he might do it, without such dismal effects as

A.D.

380.

A.D. 380. Gratiano A. 5. et Theodosio A. Cof.

L. 4. Cod. Juff. de modo militum. lib. 1. tit. 54.

L. 1. ad Legem Julianam rep. tandem Cod. Th. lib. 9. tit. 27. Dat. 18. Kæl. Feb. L. 12. Cod. Juff. de Dignitatibus.

In Com. ad l. 8. de Trovibus Cod. Th. Dat. 4. Kæl. Feb. Añt. 2. Cod. Juff.

The fifth Consularship of Gratian, and first of Theodosius.

Theodosius enlarges the power of the Præfidi Prætorio.

A Law of his against corrupt Judges.

He declares out of what sort of men he will not have Soldiers chosen.

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Publisheth a
severe Act a-
gainst Infor-
mers.He further
shows his a-
version to the
begging of
Estates.

are suggested by *Zosimus*, whose story concerning his supine Neglect of Affairs, his excessive Rapacity, Selling of Offices, and Luxurious life, is possible, will be very much suspected before we have done with the History of his Laws. To be sure he protested his extreme hatred against Informers at this time; and by his Acts declared it, those sometimes necessary but generally Evils of a State, who found holes in mens Coats, and by Accusations, right or wrong, promoted the Interest of the Treasury, or rather of begging Courtiers. He found them growing much chiefs when he came to the Government; and therefore by a Constitution (divided now, its thought, into two Laws and directed to *Pancratius* his *Comes Rei Private*, and to the *Provincials*) he ordained "That before such Beggar could enjoy any fruit of the Prince his liberality, he should cause the Informer to be produced in open Court, not only when an whole Estate or inheritance was begged, but any particular thing or piece of Land. And that he should not only thus be produced when the Emperors Rescript or Grant was shewed in the Court of the *Comes* lately mentioned; but also sent down to the Province where the Estate or thing begged lay; there to make good his Charge where the matter might best be determined one way or other; and if it proved a calumny, the *Provincials* might have the satisfaction to see the punishment (by death) of the False Accuser. In the last Place he inflicts the pains of Death upon any who shall have informed thrice, nay, although he had made the charges good; and this as he saith out of hatred, whereby he execrates all Informations of this Nature.

56. Further, this same year, he showed his hatred, not only against Informers, but the begging of mens estates, by other Laws; which here we shall mention, because relating to the same Subject. He commands the same *Pancratius*, that a Grant obtained shall be of no Force till it appear from the matter heard and examined in his Court, what particularly the Estate was, which was to be begged, and Certificate be made thereupon. This would, by a full Information, let the Emperor know what he had given, and prevent his being surprized and cheated by the usual diminishing and undervaluing of such things by those that begged them. But by another Edict directed to *Eutropius* the *Præfectus Prætorio*, he puts a greater Stop to their Greediness, by an incapacity laid upon some things confiscate to be so employed; plainly declaring "That the Estates of such as were proscribed for Treason, shall not be begged; and if granted, the Grant shall be of no force. And whereas he saith, the shamefulness of some such Petitioners many times by their importunity wrested from Princes what was not to be granted, he declares his own Rescript in such cases, as made contrary to Law, to be of no Force at all. But if he should think fit, of his special grace, certain knowledge, and meer motion, that is, without the Desire, Request or Begging of the Party, to give or grant any such Estates, such Grants so made should be of full effect. Now why he should make this exception in the cases of Treason, it being lawful to beg any other Estates, was either, for that Accusations of this Nature were often made, and of the most rich and considerable Persons, by such as gaped after their Patrimonies; or, as *Gothofred* believes, out of a certain peculiar and too great mildness and benignity towards Offenders in that kind, which made him often easily pardon both Words and Deeds against his own Person, which both *Liberian* and *Theodosius* in their Orations do testify and otherwise will appear. Therefore would he keep open some Door to Clemency, which was innate to him, by shutting it against the importunate voracity of his Courtiers, who presently after condemnation of the Party flew upon him; for which Reason also, as it seems, his Son *Arcadius* afterwards ordained, that the Estates of proscribed or condemned Persons should not be begged within two years. But whereas *Theodosius* forbade this as to the Estates of Traitors only; we must not omit that this Law by *Justinian* is extended to all other Crimes, who would not have any thing begged at all, whether it fell to the Treasury by Proscription, or any other ways for want of Heirs. As to our present Account of *Theodosius*, he subjects to extraordinary or Arbitrary punishment, such as should beg contrary to the Import and meaning of this Law; and by another, made two years after, extends this Prohibition to such Houses or Dwellings as were fitter to be made Palaces, and for the Emperors own Use, than dwellings for Subjects. If any should be so bold as to beg any such Places, when Confiscate, he pronounces him punishable as for Sacrilege, nay, although he did it out of ignorance, or being deceived

A.D.
380.L. 12. 13.
de Prætorianis.
C. Cod. Th.
Adjuncti ad
C. de
J. p.Ibid. titum ad
præfessionem
ad. p. non videri
de Datationis
testamentum ad
p. jurgium, &c.L. 14. tit.
tit. Adj. ad
J. p.L. 15. Ed. tit.
C. l. Cod. J. p.
de p. sabb.L. 16. tit. tit.
de p. ad. Cod.
J. p.

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Takes farther
care for the
reinforcement
of his Troops.And for the
services of the
Estate.Incourages
Military men.

deceived; and for this Reason, that *He who is curious and busy upon the matter of begging, ought to be careful what he asks*. And he commands *Nebrius*, in that year the *Comes Rei Private* to whom this Constitution is directed, to punish his own Office, if they make any false certificate, or consent by collusion to one that so begged, from whom he requires, that any thing so obtained shall be taken away.

57. But being now employed in the War against the *Goths*, he still took all care possible for the reinforcement of his Troops, by several Edicts issued out to *Neoterius*. "He proposed rewards to such as should discover any that had forsaken his Colours; required those whose employment it was to take up new Souldiers, to do it out of the Regions that lay most convenient, and of careful choice; and threatens with punishment both them if they neglect, and the Judges themselves if they connive at their neglect; and the *Provincials* too if they conspire with them therein. He commands that the Sons of the *Primipilares* follow the condition of their Fathers; and be obliged to that service they were bound to. But in case they were not called on in their legitimate or twenty fifth year, but become obnoxious to services of Corporations, he ordains that they continue in the number of *Curiales*; and in case the *Primipilares* had several Sons, and left a fair Estate, one of them he will have obliged to the services of these Courts, and the rest to their Fathers Employment. For he had a great regard to Corporations, that their Courts and Offices might be supplied, from which several now withdrew themselves, and, upon occasion of the Wars with the *Goths*, and the care he took to supply his Army, deserted their Charges and went into the Field. "This in another Edict directed to the same *Neoterius*, he tells him he had discovered; in particular that *Scribes* and *Logographi* of Cities had thither withdrawn themselves, probably to be Acquies in the Army; but he prohibits such practice for the time to come, telling him, that he purposed to supply his Troops out of such as straggled abroad, out of the Sons of *Veterani* and such as had been dismissed, and now minded their own private Affairs, whom he commands to the Military service, and forbids all occasion of Excuse. So even an Hand he resolved to keep betwix his own Concernment of the Army, and the interest of Corporations. But further he shewed himself that the Courts should not be deserted, that by other Laws made this year, and directed also to *Neoterius*, he commanded, "That if any by birth obliged to be *Curiales* had betaken themselves to the useful Body of the *Fabricenses*, nay, had got to be admitted into the Order of *Senators*, or to any *Palatine* or Court-Employment, they should thence be forced back to the Duties, to which they were obliged by their original. And still, as I said, to show his care both of his Army and the Corporations, if any Sons of the *Veterani* Souldiers had put themselves into the service of the Governors of Provinces, however such might pretend old Age, if he was able enough for military service he should be compelled into the Field; but if he was found unable to discharge that Duty, then to the service of the *Curia*; however, in one of them to be (if possible) serviceable to the Common-wealth.

58. Nothing appears from the Laws to confirm what *Zosimus* writes concerning this Emperors making so many *Magistri Militum*, yet that he had a special regard to those Military men, thence sufficiently is evident. For in this very year, did he publish a new Constitution or *Notitia* of Dignities, of place and precedence, whereby he makes equal such as had born these Offices, with those that had been *Præfetti Prætorio*. And the same place he assigns to them, not only in the *Secretaria* or Courts of the Provinces, and in Extraordinary meetings, as *Valentinian* had done before, but every where, indistinctly, even in the Senate of *Constantinople*, to the *Præfetti* of which City, *Restitutius*, he directs his Edict. No other precedence he gives to either sort, but such as time it self afforded; so that he who was first advanced should take place, speak and deliver first his Opinion; and this he found himself obliged to do from reason of State, thereby to oblige Military men, of whom at this time he stood in great need, having so much work cut out for them by the *Goths*, *Huns*, and *Alans*; and the more because many of his great Officers were by original themselves Barbarians. But by so doing, he might seem to lessen the dignity of the *Præfetti Prætorio*, the Power of whom was in this Age so exceeding great; and therefore to make them some amends, he seems to have enlarged it by granting

A.D.
388.L. 3. de Differ-
torio. Cod. Th.
L. 9. de Tiro-
nib. Ed. Cod.L. 11. de Filiis
militum, appa-
rit. & c. Tit. 22.
Cod. Th.L. 2. de Tabe-
lariis, &c.
Cod. Th.
L. 2. de i. i. a.
C. l. 9. 10. de
Filiis militum.
apparit.L. 1. tit. 22.
83. de Digni-
t. ordinis.L. 2. de Præ-
fetti Prætorio
per vrbis Cod.
Th. l. 2. de
Cod. J. p. tit. 22.

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ting them leave to Fine Criminals as far as fifty pounds of Gold, by the Edict lately mentioned, which is rationally thought to have been part of this very Constitution, although the Date of it hath happened to be altered. However, there extant another Law which is concluded to have been a Parcel of it, whereby those that had borne any of four other great Offices, *viz.* that of *Questor*, the *Magister Officiorum*, and the two *Comites Sacrarum Largitionum* and *Rei privatae*, are in some sort made equal to those that had been *Præfidi Prætorio*. They had formerly been by *Valentinian* preferred before *Præcones*, and so by Dignity were only *Spécialis*, but now by this Law they were taken into the Rank and Number of *Illustres*. But he doth not hereby make them fully equal with the *Præfidiarios*, as he had done them that had been *Magistri Militum*, as if they should make any advantage of Time, or be preferred before them, if they had been first advanced; but certain particulars he mentions wherein they should equal them, as in Acclamations, and being received with the same Honour and Respect in all Companies and Assemblies. The Reason he gives for this Advancement is, that though they had not yet born the Office of *Præfidi*, yet they were near it, and it was due to them, such being usually preferred to that Dignity; as might be made evident by infinite Examples.

A.D.
380.L. 2. de Præfidi-
ariis. Magistri
Officiorum, &c.
& L. 1. Cod.
Juli. ed. tit.L. 1. de Præ-
fidiariis. Cod. Th.
lib. 6. tit. 10.
Dat. Juli. 18.
Cod. Juli. & L.
1. Cod. Juli.
ed. tit.His Respect
for the Nota-
ries.

59. But amongst other more inferior Employments, *Theodosius* at this time professes the great Respect he bore to the *Notaries*, of whom has been already spoken, as also of their various Employments, out of *Ammianus*. For these were the Clerks that took Notes of what passed in the Emperours Conistory; his Decrees were often by their *Primicerius* recited in the Senate; and they were sent often into the Provinces upon extraordinary and urgent occasions, being usually bred Scholars; and thereupon it is thought they were recommended to the Emperour by *Eutropius* the *Præfidi Prætorio*, to whom this Edict is directed; he being a Person of great Learning and Eloquence. When they had left their Employments either for Age, to take their Ease, or other Respects, the *Numerarii* belonging to the Magistrates, would put them upon Duties relating to the Revenue, as those of *Collectors* and the like, to their great Inconvenience and Molestation. Now as the Rule in Law generally held, that the same Privileges belonged to those that were in actual Employment, and those that were out, but had served in that Relation. *Theodosius* in this Edict extends this Privilege which already belonged to other *Honorati*, to those that served in the Palace: and in Case any *Numerarius* were so troublesome to them, he threatens him with an heavy Fine, and the loss of his Office. But amongst his Concernes, for those that served him in the Palace, he forgot not them who by their Labour contributed to the Subsistence of himself and them, *viz.* the Farmers of the publick Lands. He revived now a Law made by *Valentinian*, for saving harmless such Persons; and he declares, no Farmer in Possession, shall be turned out through the Impertunity of another, having given that Security which of Course such Tenants were to give, by joynit Obligation of other Persons. And at this time his Hand being in, and, as any one looks upon the Laws would judge, being set to do good to his People; by his several Constitutions sent to the *Præfidi Prætorio* throughout his whole District, especially to *Eutropius*, he endeavoured to suppress the great Thefts that were common in the Provinces; and not only them, but such as were as certain, though in a more plausible way, as the unjust Exactions and Violences used by the Governors or Judges of Provinces, and the greater Officers, nay, of the Treasury it self. To this purpose, he made a famous Constitution still extant, and divided into several Laws.

L. 3. de loca-
tionibus Fund.
Juri. Empti.
Cod. Th. lib. 10.
tit. 3. Aug. 1.
Cod. Juli.L. 8. de loca-
tionibus Fund.
Juri. Empti.
Cod. Th.His Care for
the Farmers
of his Lands.His Clemency
to such as un-
derwent De-
portation, and
to their Chil-
dren.

60. By one of these he shewed great Clemency to such as underwent the Punishment of being Banished into Islands, called *Deportation*, by the *Romans*. For whereas by the Law, the whole Estates of such Condemned Persons, were Confiscated, some Portion thereof, he permitted to be allowed for the subsistence of the Offender and of his Children, and Parents (were there no Children) *viz.* one sixth part, except in Case of Treason, of which, whosoever was Convicted, and thus banished, he would also have him punished with Want, as was wont to be Practised in all places; that Crime being ever excluded from all Privilege and Benefit of Law. Both hence and from other Laws it's evident, that Death was not always inflicted for Treason it self, but sometimes Deportation satisfied. As to the Children of such Persons, by this same Constitution he allows them a sixth part of the Estate, of what Sex, Degree or Condition

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on fewer they are, although Emancipated, and Grandchildren by a Daughter, the Crime of Treason again excepted; and yet so, as even in that Case as much should be allowed them, as to their Father, had he offended in another sort, and for that been so Banished, *viz.* a sixth part; a sign of the wonderful Clemency of this Emperour; wherein his Sons refused to imitate him; the horridness of that Crime, as one of them faith, regularly leaving nothing to Posterity; and not only his Successors, but generally his Predecessors were of the contrary Opinion. But indeed this was the natural temper of this Prince, whose Mercy usually shewed in the point of Treason, *Theodosius*, about this time, extolled in an Oration he made in the *Senatus*; and of his wonderful Clemency towards the *Antiochians*, we may hear hereafter. But in that manner he provided for them whole Goods or Estates were Confiscated. By another, he hefted the succession of such, whose Estates were not seized by the Exchequer, although they were put to Death for some offence, and that as he professes according to the Direction of the Civil (twelve) Tables, and the *Lex Papia* and of the *Pretorian Law*; for the *Romans* had a double way of conveying the Inheritances of such as died Intestate, the one by the *Civil Law* it self, and the other by the *Edict of the Prætor*, when Reason required that Equity should interpose and regulate the Rigour of the Law. By this his Constitution he ordained the Estates of such as were put to Death, to descend to the Children of the first and second Degree entirely, but only half to those of the third, or Great Grand-Children. If there were no Children, a third part of such Condemned persons Estates, should go to their Parents; and the other two be Confiscated. And to the Grandfather and Grandmother by the Fathers side; if the Party had no Father nor Mother, one fourth part; and all these failing, as much to the Brothers and Sisters of the Party, who if of whole Blood, and not Emancipated were to exclude the Grandfather and Grandmother as by the Ancient Law they ought to do.

A.D.
380.L. 2. ed. tit.
Adh. 1. ad.
Juli.His further
Severity a-
gainst Judges
that had been
deprived for
Corruption.

61. By another part of this Constitution, he further provided against the Corruption of Judges; for, having as we have seen already, this same year, deprived such of all Honour, and degraded them as low as the meanest Condition of the Vulgar, he now took away the Stairs by which they might hope to mount again to their former Dignity, by declaring, that they should for ever be debarred from all, both a Real and Titular Honours. And he Commands *Eutropius*, that if any Person formerly Convicted should obtain any such Power or Employment, as might happen through the Emperours not being acquainted with what had formerly passed, and his being imposed on; that in such Case, he should not suffer him to Ad or intermeddle; but send and acquaint himself with the matter. This he did, considering that Men of such base and corrupt Principles, seldom grow better if they have any opportunity; however are to be presumed still the same, except there be any Evidence to the contrary, of which it was fit the Prince should be Judge, without having his Hands tied up, if he were pleased to restore any, as satisfied of their Amendment. But we see the power of the *Præfidi* was very great, as even in this Case it appears, of Prohibiting a Person to meddle with the Government, though producing the Emperours Commission, if they had Authority given them of punishing such Judges as they found to be Thieves without any necessity of making Report to the Emperour. By this same Constitution he reformed several Abuses perceived to be growing about Contracts of Marriage, Prohibiting that Liberty which some took of ingaging the Affections of Persons, of putting them to trouble and charge, and then deserting them; such Women as were Guilty of this Inconstancy by the *Roman Laws* being to restore fourfold of the Tokens that they had been presented with. The Law in this point he now regulated, according to the Age and other Circumstances of the Woman; but vigorously reinforced that part of it which related to the Governours of Provinces, or such as had Command, or Authority therein; who thereby were Expressly forbidden to marry, during their Government, any that lived in the parts subject, to their Jurisdiction, because of that Fear, Awe, or Terror which it was supposed they might strike into them. He declares that if any woman under such Circumstances had received any Tokens or Presents; whereas by the Ancient Law the might renounce any Contract thereby made, but was of necessity to return the Presents back; that now it should be in her free Choice, whether she would or not return them. And this he extends not only to the Governour himself, but

L. 2. Ad le-
gem Juliam.
de Jurejur.
Cod. Th. Aug.
1. Cod. Juliam.L. 6. de Spon-
saliis. &c.
Cod. Th. lib. 3.
tit. 3. & L. 1.
Cod. Juli. ed.
tit. Antioch.L. 1. de Pro-
vinciis. Rellat.
Cod. Th. lib.
1. ed. tit. 6. &
L. 1. Cod.
Juli. ed. tit.Especially of
Governours
of Provinces.

Sect. 3. his Sons, Grandfons, Kinfmen, Affeffors and Domesticks, if he interposed in their behalfs. But in Case, after his Government ended, the Party would agree to it, the Marriage might be consummated, but as now by a new Constat, which during his Power was reputed and taken to be null and ineffectual.

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L. un. de defici
riti iudicata.
Cod. Th. lib.
14. tit. 19.

L. un. Si qua
comp. predi
poteat nup
ac potest in
ia. Cod. Th.
lib. 3. tit. 11.
L. un. Cui.
Joff. red. tit.

Prohibes Do
nations to be
made to them.

62. By this same Constitution, he endeavoured to prevent the Fraud of Debtors, and the Rapacity of Creditors, appointing what Interest should be paid, and when, for such fums as any by course of Law had been cast in; but still had his Eye upon Governors of Provinces, by whom he thought the People more oppressed than by one another; and that especially at this time, and he thought he had not yet done enough in the point of Marriage. He further severely Prohibited all having Authority in any Province or place, not only by Threats or Awe, to Compel any Woman to Marry themselves or Domesticks, but any other Person whatsoever, and that under a double Penalty, of fining in ten pounds of Gold, and losing the Dignity belonging to such as had borne their Offices, when out of their Employment; which if they should presume to take upon them, or Challenge, he forbids them coming into, or abiding in the Province they Governed for the space of two years. Such punishment was the Offender to undergo if Marriage followed upon his Attempt; and for prevention yet further, the Emperour prescribes a remedy against such violence, giving the Party so Awed or threatned, Liberty to renounce the Jurisdiction of the Tyrant, if he were the ordinary Judge or Governor of the Province, and betake himself to those of the Degree of *Spesialis*, as the *Vicar* of the Diocesis, the *Proconsul*, *Comes* or *Præfatus Augustalis*, according to the place where it should happen; and there demand Relief. And if the *Vicar* or other such officer made the Attempt, the Ordinary Judge should have the Hearing of the matter; but if both were faulty, then should the *Illustrious* Persons or *Præfidi Prætorio* undertake the Protection of the attempted party. In conclusion, the *Defensores* of Cities, formerly spoken of, are required to take care that the matter be prosecuted in this sort, as also the *Apparitors* of the Ordinary Judge.

63. Yet still farther did his Care extend, to protect the Inferiour sort of People from the Awe and Terror they might stand in, in order to their Provincial Magistrates, and the ill Effects following thereupon. By another Law, part also of this Constitution, he permits all Donations to such Persons to be revoked, within the space of five years, whether these Magistrates were Governors of Provinces, of Dioceses, or *Præfidi Prætorio* themselves as formerly had been ordained in case of purchases; nay though they were made but to their Wives, their Children in distinctly of what Degree, Sex or Condition whatsoever, their Parents, Brothers, Sisters, Fathers in Law, Mothers in Law, or Domestick Affeffors; for he will not have them themselves only incurrupt, but their Housles and Families also untainted. The five years, within the space of which he gives leave to revoke the Donation, he will have reckoned from the going of such a Magistrate out of his Office, and he permits it to be done without any *Denuntiatio* (as the term of Law is) or warning, which was necessary before other Sutes or Actions were commenced; it sufficing to prove before the Judge the time when the Donation was made. And yet further to this Suite or Prosecution he adds such Efficacy, that the Possession of the things given, should revert to the Donor in such sort as if it had never gone out of his Hands; in like manner as those that had possessed any thing by fraud were compelled to restore it together with all Fruits or Emoluments thence arising. In Case the Donor die before the Term be out, he declares that his Heirs shall have Cause of Action against the Donee, except the Donor, while living, had by his silence confirmed the Donation, by suffering the matter to rest so long till the Heir became emancipated, or out of his Paternal Authority. But we are to understand, that what *Theodosius* here Enacts, and other Laws determining against Donations made to Magistrates, must be understood concerning such as were made and had effect betwixt the living; for by Testament or last Will any thing might be given or bequeathed to those in Dignity, or Power, as well as to the Emperours themselves, which by another Branch of this large Constitution he doth declare, which intances in an Inheritance in a Legacy, and a thing left in trust with another Person for their Benefit and Advantage. By another part of this same Law he declares, that if so be, one that was left Heir, or as we say Executor, or succeeded to an Intestate, did once approve of the Will of the deceased, all things therein bequeathed should hold good, although the Testament were not solemn, or so Constituted as the Law required.

64. What *Zosimus* writes concerning so many flocking to him with their Complaints,

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Refrains the
Number of
Messengers
sent up to him
upon Business.

Takes care of
repairing an
cient Building.

Forbids the
torturing of
the Curiales.

plaints, when he lay at *Theſſalonica*, we may well believe to be true, from what we find in another Edict made by him this year, although not at that City, but at *Constantinople*; if *Hædrianople* be not rather to be read. When places in the Countries had any Requests to make, they were wont in those times confidently to send their Messengers to the Emperour, and more in number than was convenient; to the great Charge of the People and the burthening of the *Cursus Publicus*, which provoked other Princes as well before, as after, to put a Restraint upon this Disorder: Cities of one and the same Province would send up their Requests particularly and by themselves; and this *Theodosius* doth not disapprove, at least not forbid; but how many in Number (over those Cities of the Provinces were, at the general meeting three Messengers only, should be chosen to represent their (particular) Complaints; which was thought sufficient; nay, *Valentinian* the younger afterward would have but two Messengers Chosen for an entire Diocesis or a Province, although in former times three might have been sent from one City alone, but no more; by an Edict of *Vasilius*, whatsoever place it was. Now all the Messengers go under the Name of *Legati*, and so are termed in a peculiar Title of *Theodosius* his Code, as well as they who were sent on Errands to Foreign Princes or Nations, which we now more peculiarly call *Ambassadors*; for such more properly are they who are sent from one Sovereign Authority to another, although now Commissioners sent to a Treaty go under this Name also; and this more lately, though (mediately) they also transact with Sovereign Powers. As for Ambassadors sent from the *Romans* to Foreign Nations, their Number often was wont to be three. But to return to *Theodosius*, as by this Law he seems chiefly to have aimed at the Ease of the *Citizens* to by others of this same year, to have consulted the Beauty and Lustre of the Cities. And some need there was, of his so doing; for it is observed, that from this year of which now we write, for seventeen together, till the Reign of *Arcadius* his Son, the Governors of Provinces through the East, cast off all Care of repairing public works or Buildings. This made him both now and afterwards quicken them to it by several Edicts; and this year, when one *Julian* was going to be *Præfide* of *Ægypt*, he made this Charge part of his Instructions, declaring that every Judge that was to be sent into his Province, should repair and restore to their ancient Lustre two Parts of three of such Structures as were decayed, either through neglect or Age; and if they would to these add the third part also, they should therefore by procure Fame and Reputation, though at the publick Charge. They were greedy enough of Fame and Repute, but they loved to procure it by some new Work, some new Device, which should call them Author, at least Founder; and were wont to neglect what was begun but left imperfect by their Predecessors; To obviate which mischief, this same year by another Edict directed to *Ætropolis*, he commands that they begin no new Work till the old ones be repaired, and such as were left unfinished by those that served in the Province before them.

65. This Charge concerning the Repairs of Ancient Structures, was indeed one of those which of Course were given to Governors that were going to undertake their Provincial Employments; and so was that concerning the Immunity of *Curiales* or Senators of Cities from Tortures, or beating with Plummetts as should seem from another Law directed to the same *Julian* *Præfide* of *Ægypt*, and to be joined with the former. By this he excepts from the aforesaid Tortures, being due to Criminal Persons, the whole Rank or Order of the *Curie*, and will have every Judge or Governor know, that if either He himself, or his Officers Act contrary to this Injunction, they shall be most severely punished. Therefore he requires Him in particular, that the greatness of the Command considered, he will abstain from corporal Injuries, as he terms them, of the *Curiales*; and to be sure to punish with the heaviest Censure, any of his Officers that shall transgress in this sort. Yet for all this, from an Oration of *Libanius* it appears, that some Governors themselves transgressed in this kind, and were punished for it; as for instance, *Flavianus* the *Proconsul* of *Asia* (of whom we may hear afterward) who was turned out of his Place, and another *Præfide* of *Ægypt*, who was cast into Bonds for the violation of this Law, a Law so acceptable and welcome, that *Libanius* prays him to establish Justice by the punishment of such as should infringe it, by which Course many would be encouraged to give themselves to the Service of the Cities, whereas, if he neglected to do it, he would in a manner command them to run away from their Employments. But so kind, we see, was *Theodosius* to Corporations; the Senators whereof could not but be pleased to have their Persons thus secured from the Insolence of Governors, and especially of their Officers; and, if publick spiri-

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L. 7. de legi
lit. de decur
pr. cod. Th.
lib. 12. tit.
12. de offi
a. Cod. Joff.

L. 20. et
de quiritius
publ. Cod. Th.
lib. 1. tit. 1.
Joff.

L. 80. de decur
curiales Cod.
Th. lib. 1.
Cod. Joff.

Id. de quiritius
a. Cod.

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spirited, to see their Towns beautified by repairing of such Structures as were gone to decay. And the Emperours indeed were wont so far herein to concern themselves, that in their usual Instructions or Mandates given to these Magistrates, they usually ordered the Accounts concerning these publick Works to be allowed. For each City had its peculiar Revenues, part whereof was wont to be assigned to the maintenance of publick works, the Accounts of which they would have allowed, but Prohibit any Salary to be assigned by the *Dacuriones*; or greater Magistrates, to any Person, without their Command therein especially signified; whereas, in some Cases the *Dacuriones* were wont to allow Salaries, as to a Municipal Professor or Physician; to Messengers sent to Court, and to the maintenance of such of their own Members as were fallen to Decay. But *Constantinus* forbade any Salary to be given, peremptorily, without the Prince his Command; as his Grandfather *Constantius Chlorus*, himself, assigned to *Eugenius* the *Rhetorician* his Pension from the City of *Augustodunum*; and *Gratian* when he gave the *Gallian* Cities leave to chuse their Professors, yet would not yield them the liberty of assigning them Allowances at their own Discretion. Yet *Libanius* in an Oration to the Senators of *Antioch* importunes them of that City to increase the Salaries of their four *Rhetoricians* or *Sophists*, by assigning them certain Lands; so that probably the Prohibition of *Constantinus* extends to unusual and Extraordinary stipends; not to the wonted and necessary ones.

Punishes the
hasty Marriages
of Wid-
dows.

66. *Theodosius*, at the latter end of the year, setting himself to the Correction of manners, took notice of the Immodesty of Widows (amongst other Faults) which were wont to Marry again before the time of Mourning due to their former Husbands was expired. He confirms what the Law formerly had declared against such, that they should be esteemed infamous Persons; and to this adds, that they should not bring as Dowry to their second Husbands above a third part of their Estates nor leave them more than just so much by their Testaments. That they shall be Incapable of any Inheritances, Legacies or Benefits from Trusts left by Will, which must fall to the Heirs, and no Benefit thereby Accrue to his Treasury, to which he will have no respect in the business of Reformation of Manners. Further, such a Woman shall loose whatsoever was left to her by the Will of the first Husband, which must fall to them to whom the *Pretorian Law* assigned it; and the Treasury succeed in the last place. And as for such Inheritances as fall to her by Succession, she shall not succeed to any such, or those called Honorary, beyond the third Degree. By another part of this same Constitution, directed to *Eutropius* the *Præfatus Pretorio*, though now separated and put into another Title in the Code, he pronounces such a woman notoriously infamous by the Law, except the Prince be pleased by his Indulgence to wipe off the Blot, whether she had Children or not by her Husband. In Case she had Children, and obtained from the Emperor an Abolition of Infamy, he is willing she shall enjoy it, together with an Exemption from all other punishments, provided she part with half that Estate she had at the time of Marriage, to those Children she had by her former Husband, by a pure and solemn Donation, so as no Profits thereof shall be Exempted; and if one or more of them should dye, those remaining shall succeed the deceased; and in Case all of them die Intestate, then, for Consolation of her misery, Contracted by the loss, She herself shall be the Heir.

He makes a
favourable
Law in behal-
of Prisoners.

67. This Constitution bearing Date on the fifteenth before New-years Day, we suppose was not made at *Constantinople*; whither *Theodosius* by this time, was scarcely returned from *Theffalonica*. The second day after there, we think we find him by another Law which here we shall not further mention. But to be sure at *Constantinople* he was on the twenty-ninth of *December*, on which we have another Edict directed to *Eutropius*, and full of Clemency, concerning the Apprehension and Custody of Prisoners. "Hereby he Commands, that none be cast into Prison without sufficient Ground: That none be sent for from far, without the Accuser have first engaged himself solemnly to undergo the punishment due to the Offence if he do not prove it. That thirty Days time shall be allowed such an one to dispose of his Business, and to comfort and settle his Family before he undertook his Journey, by the ordinary Judge of the Province, or the Municipal Magistrate, to be reckoned from the entering of the Decree; that so there may be no opportunity left to the Messenger to make his Markets out of him, for any Reprieve. And when he is produced before the Judge, before whom he must receive his Tryal, he shall have the Assistance of an Advocate, be examined, and understand what is laid to his Charge; which done, in a condition equal with that of his

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L. de operibus
publicis Cod.
Th.

L. xxi. de p.

L. de p. Cas.

L. xii. de tit.

L. de p. Cas.

L. de p. Cas.

L. de p. Cas.

L. de p. Cas.

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his Accuser, he shall abide his Tryal. Being now in Prison, he commands that he be not there long kept, nor his Tryal protracted, but thereby all occasion be cut off from Jailors, and Keepers, of making their Markets by procuring to Prisoners a speedy Hearing. To this purpose he requires, that the *Commentariensis*, evesry third day, present to the Judge an Account of the Number, Variety of Crimes, Order, and Age of the Prisoners; as *Constantinus* formerly had ordained that they be fully heard within one Month. This he will have done, or the Office Fined in twenty pounds of Gold: And a lazy, proud and careless Judge, Banished the Province, and Fined also in the sum of ten pounds. These are the several Laws made this year by *Theodosius*, whom leaving at *Constantinople*, we must see what was done, in the mean time, by *Gratian* and *Valentinian* in the West.

Gratian in the
mean time fa-
vours the Na-
vicularii.

68. The first thing we meet with, is a heavy Complaint made to *Gratian* by the *Navicularii* of *Africa*, concerning the Breach of their Privileges granted by former Princes. To put them into heart again, and that *Rome* might not suffer by want of Provisions, in Answer to their Petition, he Confirms what Immunities they had received from his Predecessors. In the first place, he establishes upon them the *Æquestrian* Dignity, which had been conferred on them, both by *Constantine* the Great, and *Julian*, by Laws made for that purpose; which are not now extant. And as this, amongst many other Privileges belonged to that Dignity, that such as enjoyed it were exempt from Corporal Injuries, as they were termed, that is, from Examinations by Stripes and Tortures, *Gratian* confirms it also to them, threatening all Judges with grievous punishment, in case they treated any *Navicularius* in so severe a sort; and also their *Apparitors*, whose duty it was to put them in mind of their Office, when they saw them transported with any passion. In the third place, he delivers them of the Fear they were in, of being forced to the Services of Corporations, agreeing with them in what they urged in their Petition, that in pressing necessities, such as already had been bound to the Services of the *Cursæ*, were wont to be discharged, and added to the Body of the *Navicularii*. Besides this, he establishes their Ancient Immunity from the Burthen of the *Lustrati Collatio*, and Custom for their Goods; which favour was granted but to few Persons; but whereas some of them might abuse this their Liberty and defraud the Publick, by concealing the Goods of other Men, and giving opportunity to Merchants to steal the Customs of their Wares, he charges the Judges concerned in such matters, to take especial Care, that no such ill Use be made of his Indulgence.

69. In the same Constitution, he abates the Rigour of a Law made by his Father, which required, that half the Number of the Mariners of a Ship, should be subjected to Examination, in Case of Shipwreck, and the Death of Passengers caused thereby. Moved by their Report, he permits that but two or three be examined. But in Case the Matter of the Vessel were living, the truth should first be inquired of from him, as supposed the best to understand all matters of such Concernment. If so be he had miscarried, Choice was to be made of other Mariners; and if all were lost, Inquiry was to be made among the Relations of the *Navicularii*; and he appoints a very large time, in which this Tryal shall be terminated, viz. five years; one, or two having been the usual Term for such Business. Besides these Acts of Grace, he takes Order also, that what had by the Laws been allowed them for loss of the Grain by Leakage, or other Accidents, should not be diminished by those Officers, whose work it was to oversee the Transportation of Corn. He declares at what time of the year they shall begin to transport the publick (or Fiscal) Grain, and when they shall leave off their Navigation. For of old, before the Invention of the Compass, there was wont to be some definite time, for opening the Sea, and as it were, for the shutting of it; for so both were termed by the Antients, who were wont to Celebrate both these times by solemn Sports and Merriments. In Spring, you must know, they were so bold, as to adventure forth; and yet they accounted it but doubtful and dangerous to stir out before Mid-May. Now *Gratian* will have the *Navicularii* take a middle Course; viz. to begin the first of April, being it was not so late as May, and nearer to Summer than was March. And whereas the Seas were not so ordinarily to be shut up till the eleventh of November, he will have Navigation (with the Fiscal species) to cease all this Month, and part of October also; for he appoints the time of freighting the Ships to extend to the first of October, and thenceforth Navigation to continue till the Ides or fifteenth of the same Month inclusive, thereby allowing fifteen

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L. de p. Cas.

L. de p. Cas.

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L. de p. Cas.

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teen days for Sailing from *Africk*, and unlading in the Port of *Rome*; five thousand Furlongs being reckoned for the Breadth of the Streight betwixt this Port and that of *Carthage*. But afterward, this time of Navigation was enlarged, as we may see in convenient time. In the last place, *Gratian* will have the Number of the *Nauicularii* increased, by calling all men to the Function (if need be) that are not employed in publick Buſines.

He makes
some Laws in
order to War.

70. We do not Read of any Expedition made by *Gratian* this Year; but that he apprehended the Occaſion of one, and probably feared the motions of the Barbarians towards the North, we cannot but believe from the Preparations he made this very Spring. For being now at *Triers in Gall*, he iſſued out Orders to the *Præfect of Italy* (to whom he gives the Attributes both of *Vir Clariſſimus*, and *Illuſtriſſimus*) for an Impoſition of extraordinary Services and Payments, and amongst the reſt, for levying of men, and provision of Corn and Horſes in *Italy*, and the *Suburbicarian* parts. But from theſe extraordinary Services he will have ſecured the Tenants of his *Patrimonial* Lands, their Aſtors or Stewards, and ſuch as poſſeſſed them in perpetual Right. And from the finding of *Tirones* or New Soldiers, he alſo privileged the *Suburbicarian* Partas as he terms them, which were often befriended, as we may believe, for the ſake of *Rome*, the Dioceſs of which they were accounted. The Corn and Horſes he commands to be haſtened in ſuch manner, as having Authority over theſe parts of *Italy*, and the *Suburbicarian* Provinces; for alſo *Italy* and *Rome* it ſelf had fallen to the ſhare of *Valentinian* his Brother (who himſelf made Laws alſo this Year, though hitherto not of that Conſequence ſo as we think fit to trouble the Reader with them) yet he being ſtill very young, he governed both thoſe quarters, and in *Gall* alſo. As this Law provides for the raiſing of Soldiers, there's another as neceſſary, which bears Date ſome four Months after, made againſt their running from their Colours; inflicting puniſhment on ſuch as ſhould conceal ſuch Fugitives, and propoſal of Rewards to thoſe that would diſcover them ſo offending. The Stewards or Managers of Lands offending in this point, it Condemns to no milder a Death than that of Fire; and the Lords of ſuch Eſtates it deprives of ſuch Grounds, as by their Deſign afforded them Lurking holes, according to the ordinary Cuſtom of forſaking Lands by procuring, or admitting unlawful things be done upon them. As to the Diſcoverers, if Slaves, it rewards them with freedom; if free, and of ordinary Condition, with Immunity from Civil Employments; nay the very Offender, if he make himſelf known, it requites with Impunity; but inflicts Death upon him that lies concealed; and ſevere Punishment upon Governours of Provinces and their Officers, if Conſpiring. Now this Ediſtis as much to be aſcribed to him that is about making of Leaves; ſo that we can ſee no Reaſon why Learned *Gothofred* ſhould imagine *Gratian* to have been Author of that, but *Valentinian* of this. The Propoſing of it in *Rome*, can no way evince it; for the Reaſon he himſelf alleges, why the Eldeſt Brother exerciſed his Authority in *Italy* and in that City.

71. The following year, being the CCCLXXXI of our Lord, and the ſixth of *Valentinian* the ſecond, had for Conſuls *Fl. Siagrius* and *Fl. Annus Eucherius*. The *Præſecti Prætorio* mentioned under *Theodoſius* were *Eutropius*, *Neutherius* and *Fl. Siagrius Florus*; and *Siagrius* under *Valentinian*, *Gratian* and *Valentinian* made their Abode at *Milan*, or *Aquileia*, and *Theodoſius* at *Conſtantinople*, till near the middle of *July*; toward the end of the year he removed from *Heraclea* to *Adrianople*, but returned back to *Conſtantinople* in the ſame Month of *September*, and there continued all the reſt. About this time it is that *Zoſimus* tells us how *Gratian* ſent one *Vitalianus* to Command the Legions of *Ilyricum*, a man no way able to ſuſtain any difficult or dangerous Enterprize. While he there lay, two Parties conſiſting of ſo many *German* Nations, beyond the *Rhine*, of which one was headed by *Fritigern*, and the other ſerved under *Alothus* and *Safraces*, ſo preſſed upon the *Galls*, that they conſtrained *Gratian* to give leave, that on condition they would quit the *Gallick* Regions, they might paſs the *Iſter*, and beſtow themſelves in *Pannonia*, and the upper *Myſia*; and this he granted out of his earneſt deſire to be rid of them, by reaſon of their continual Irruptions. They, to improve the opportunity croſſed the River, and through *Pannonia*, reſolved for *Epi*, and paſſing over *Achelous*, to fall upon the *Greek* Cities; but, in order to this, *Athanarich* the chief of all the Royal Bloud of *Scythia*, they concluded was to be removed out of the way, that they might not leave an Enemy at their Back. Upon him they fell, and eaſily drove him out of thoſe places which he held, who

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Minuſt is L.
12-44 Extra-
ordinarij dno.
Cod. Th. ad
Theodoſian
Cod. Th. 12.
Dat. 15. Kdi.
A.D. 381.
Cod. Juſt.
Empireſtica-
tit.

Alothus pſiſſi-
ſſimus.
L. 4. de Deſi-
tin. Cod. Th.
lib. 7. tit. 18.
P. 1. de Fel.
Rena. Et L. 1.
Cod. Juſt.
tit. 11.

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Fl. Siagrius
Fl. Annus
Eucherius
Cod.

Athanarich
driven by the
Germans out
of his Coun-
try.

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Dies and is
buried at Con-
ſtantinople.

ſpeedily betook himſelf to *Theodoſius*, but lately recovered of a dangerous Sickneſs. The Emperour kindly received him, with all the Barbarians that accompanied him, going out of the City to meet him; at a good diſtance: And the Man dying not long after, he buried him with Royal Pomp, and ſo great Magnificence, that all the Barbarians being aſtoniſhed at the Statelineſs of the Funeral, the *Scythians* returned home, reſolving no more to moleſt the *Romans*; ſo greatly did they admire the goodneſs of the Prince; and ſuch as came over with *Athanarich* ſet themſelves diligently to keep the Bank of the River; and a long time hindred all Incurſions from being made into the *Roman* Territories. Thus much writes *Zoſimus* concerning that *Athanarich*, who though he pretended his Father had made him ſwear, that he would never ſet Foot on *Roman* Ground; yet afterward laid his Bones on *Roman* Earth, coming to *Conſtantinople* on the thirteenth of *January*, and there dying on the twenty-fifth of the ſame Month. We ſee by this Story of *Zoſimus*, how the *Germans* preſſed upon the *Gallick* Nations, and about the ſame time that the two Laws lately mentioned concerning the Raiſing of Men and Proviſions, and againſt the concealing of Fugitives, were made; ſo that we need not ſeek for any other occaſion than this, nor any other Author than *Gratian* himſelf.

Theodoſius ſuc-
ceeded by Zo-
ſimus and the
Annalists of
other Hiſtori-
ans.

72. But, *Zoſimus*, proceeding in a reaſonable good humour, tells us, that at the ſame time ſome other things happened luckily to *Theodoſius*. For he overthrew in Battle the *Scyri* and *Carpadoce*, which were mixed with the *Huns*, and compelled them to reſtore the *Iſter* into their own Countries. Now again the Soldiers began to reaſume their former Courage, and ſeemed to receive hope, notwithstanding the miſchiefs that had formerly happened; the Huſbandmen were encouraged to renew their Labours; there being free indifturbed Paſture afforded to Flocks and Herds. And now the Hiſtorian condescends ſo far as to tell us that in this manner *Theodoſius* ſeemed to heal the former maladies of the State. And he adds, that *Promotus* at this time commanding the Army which conſiſted of Foot in the Province of *Thrace*, fell upon *Odothorus* who had gathered together a vaſt Army, not only out of ſuch Nations as Bordered upon *Iſter*, but others moſt remote and unknown; and by this time was paſſing the River. But *Promotus* met him in his Paſſage both with his Foot on Land, and Boats upon the Water, and made ſo great Slaughter of his Men, that he filled the River with dead Bodies; and the ſlain that lay on dry Ground could not be numbred. What *Zoſimus* tells us of the ſucceſs of *Theodoſius*, is by others in general terms attested, and eſpecially what he writes of the Clemency and goodneſs of his Nature, concerning which we hear enough on all Hands. By the force and efficacy of this Weapon it was, not by *Garrigons*, *Archers*, or Armed Men, as *Themifiſtus* tells him, not by *Armenians* or *Spaniards*, or by multitudes of Armed Horſes that he extinguiſhed the *Scythian* Flame; for it went out of it ſelf, by reaſon of his Prudence and good Advice. This is a Teſtimony given by one *Pagan* to another, to which if we may add what is further ſaid by an Hiſtorian of theſe time times, of our own Profeſſion; He writes further, that all the Nations of the *Goths*, by *Zoſimus* termed *Scythians*, after their Kings Death, beholding the Verreue and Mildneſs of *Theodoſius*, gave up themſelves to the *Roman* Empire. That in thoſe days alſo, the *Perſians*, who had ſufficiently injured for their Victory over *Julian* and other Emperours, and their late putting of *Valens* to flight, ſent Ambaſſadors on their own Accord to *Conſtantinople*, and in a ſuppliant manner deſired Peace. whereupon that League was made of which all the Eaſt, ſaith he, to this day, with ſo much Tranquillity, reaps the advantage. So he proteſted the Empire from its foreign Enemies. Now let us ſee how by Enacting whoſome Laws, this year, he contributed to this Protection, and further corrected the inward Diſtempers thereof.

73. To the protection of the Province he contributed by publiſhing an Ediſt of the ſame import with that of *Gratian*, lately mentioned, againſt ſuch as harboured the Soldiers that ran from their Colours, impoſing the ſame puniſhment upon the Stewards and Agents, aſſo the ſame penalty upon the Owners of the Lands; and this we may gueſs was done in Order to the *Scythian* or *Gothick* War, which, for theſe three years, continued, notwithstanding the induſtry uſed by the followers of *Athanarich* upon the Banks of *Iſter*, which *Zoſimus* mentions. The Imperial Authority could not ſupport the State except it was likewiſe ſupported by the Revenue; but this was weakened by ſome Covetous perſons, who poſſibly encouraged themſelves in their fraudulent practices, by hope of Impunity conceived from the Emperours Clemency. For we find that at this time it was become too frequent to cheat the publick

Grat. 6.

Gratian lib. 77.
c. 34.

L. 5. de deſer-
tariis Cod. Th.
Dat. 16. Kdi.
Fabr.

He makes ſe-
vere Laws for
viſiting his
Reverence
from groſs
Abuſes.

U u

lick

Sect. 3.

lick, even by cutting down Trees and Vines, thereby to pretend Poverty and evade the Tax, in the Books whereof was usually registered what Trees were in a Field and what or how many Vines in a Vineyard. "This Fraud he thought fit now to punish by no less a Censure than of death and confiscation of Estate; with a caution not to trouble any Person that used that course merely for the improvement of his Grounds; which severity, however proper for the cheats of this present time, yet was thought too great to be continued, and therefore though the Law be taken into *Justinian's* Code, yet the penalty is changed from Death and Confiscation, to such punishment as the Judge, having cognizance of the cause, should think fit. There was another Abuse committed betwixt such as managed the Publick money; and other persons who were wont to borrow it of such Officers; which proving very inconvenient in draining the Treasury, so as it could not suffice for the publick charge, he forbids his Money either to be lent or borrowed. "Such as should borrow it either upon Bond or word of mouth, he punisheth with confiscation of Estate and perpetual Deportation; and those who under Notion of publick Creditors should either lend or give it, with no less than Death. This bears date on the one and twentieth of *July*, from *Heraclea*, whither he removed from *Constantinople* upon occasion, as it's thought, of the War with the *Scyri* and *Carpodace* mentioned by *Zosimus*. He took further notice this year, that the miserable Provincials were harassed and compelled speedily to pay their Taxes; and yet notwithstanding, nothing or but little, often time came to the Treasury, by reason that the Officers belonging to the Revenue trafficked and made their own Markets of it. "He inflicts death upon such as should so intervett the money, and upon Judges or Governors of Provinces, except after the recit of it, by their Officials they signified that it was committed to the publick Custody at such a distance as was usual. And if the money were kept ten days longer by the Officers of the *Comes Largitionum*, or those whose work it was to convey it, they should fine in two hundred Parts of the value of the Summe.

A.D.
381.

L. 1. de Crap-
turius Cod. Th.
lib. 13. tit. 11.
C. de Crap-
turius Cod.
Th. Justinian
interpretat.

L. 2. de His
qui cum His
Interfuerint, C.
Cod. Th. lib.
12. tit. 24.
C. de Palla-
dium Com. S. L.
C. de Crap-
turius Cod. Th.
Justinian interpretat.

L. 3. Cod. Th.
lib. 13. tit. 24.
C. de Crap-
turius Cod. Th.
Justinian interpretat.

L. 10. de Tiro-
nibus Cod. Th.
Justinian interpretat.

L. 8. de De-
curionibus Cod.
Th. P. P. Justinian
interpretat.

L. 5. de Hono-
rariis Cod. Th.
lib. 6. tit. 22.
Dat. 3. Kal.
April. C. de
Honoriis, C.
Cod. Th.

L. 2. de Pri-
miceriis Cod. Th.
Justinian interpretat.

L. 1. de Pri-
miceriis Cod. Th.
Justinian interpretat.

75. But

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75. But as for his own Palatine Officers, if they, as for Example a *Primicerius* of the *Notaries*, should part from the Confistory, or he who immediately followed him, as the *Tribune* or *Notary*, or other *Notaries* and *Tribunes*, or *Domesticks* and *Notaries*, and obtain by Codicils the Dignities aforesaid, they should be preferred before such as had exercised such places, if so be they were of more ancient standing. In like manner he resolves that the *Proximi* of the *Scrinia*, and the *Magistri Dispositionum* shall be so equalled with those of the order of *Precurs*, that if they first were dismissed out of the Palace, with this honorary Dignity, they shall precede others who had really discharged this place and Trust. But, as to the *Notaries*, we are to know further, that the *Primicerius* and *Secundocorius*, at their dismissal, were preferred before *Vicars*, and made equal to *Proconsuls*; the other *Tribunes* and *Notaries* were made of the same Rank with *Vicars*; and the *Domesticks* and *Notaries* (for there were these three Ranks amongst them) with *Consulares*. This same year *Theodosius*, as by consent, made two Edicts concerning the same Subject, one whereof being next in order in the Code to that made by *Gratian* concerning the *Notaries*, differs little from it, but only in this "That he will have the Dignity of the *Primicerius* to have its original from the very time of their entering the Office of *Primicerius* and *Tribune*. As also that he will not have the *Pretorian Tribune* and *Notaries* to be taken for Persons of the same Rank and Quality, as to be ranked with *Proconsuls*, but in the next Degree with the *Comites* of the *East*, or *Egypt*; for these two were next in Degree to the *Proconsuls*, as also the *Comes* of *Pontica*, but superior to all other *Comites*, *Duces*, *Vicars* and *Consulares*. Now the *Tribune* of the *Pretorian Notaries* was the same thing amongst the *Notaries* of the *Praefecti Pretorio*, as the *Primicerius* now spoken of amongst the *Notaries* of the Prince. In like manner next in the Code to the Edict of *Gratian* concerning the place of such as had without the Palace by Letters obtained Dignities, we find one of *Theodosius* immediately following, and concerning the same matter to the same purpose. "For he will by no means suffer such as lie in the shade, and rather by favour than any good desert, have obtained Honorary and Titular Dignities (so did not they that served in the Palace) to be ranked in the same degree and quality with Persons who by their Actions or worthy discharging of their Employments had commended their memories to Immortality. The last Edict which the Code presents us with this year is another of *Valentinian*, to constrain such as were bound to make an Annual payment of or for Provisions to the City of *Rome*, to discharge their Duty; or, claiming "That if they paid it not within the year, they should forfeit as much more, and if afterward they delayed, fourfold as much. For it is to be known that certain Provinces paid a yearly Tribute to the Treasury or Chamber of *Rome*, with which Corn was bought in *Spain* and *Egypt*. The Tribute was wont to be behind, and therefore, the Possessors of the grounds were intended to be quickened up by this Constitution.

Valentinian
concerns him-
self for furni-
shing Rome
with Necessa-
ries.

76. The CCCLXXXII year of our Lord had for Consuls *Fl. Antoninus*, and *Fl. Siagrius* the second time; it being the seventh of *Valentinian* the second, and the tenth Indiction. The *Praefectus Pretorio* under *Theodosius* was *Florus*; and under *Gratian* and *Valentinian*, were *Severus*, *Siagrius* and *Hypatius*: *Proculus* was both this, and the former year, *Comes* of the *East*, and *Palladius* was *Praefectus Augustalis* of *Egypt*. *Theodosius* the Emperor continued this year at *Constantinople*, and there, on the one and twentieth day of *February* intombed the Body of *Valentinian* his Predecessor. In the beginning of the year he considered of an useful and material point for the keeping of good Order and Decorum amongst the People, viz. what sorts of Clothes were fit to be worn in this City; particularly by *Senators*, *Officiales* and *Slaves*, who were wont, by promiscuous and common Use of Garments, to make themselves little differ in appearance both from other Persons, and amongst themselves. This laudable Reformation had been formerly and seriously thought of by *Alexander Severus*, who purposed to assign to all Ranks and Degrees their several Habits, that they might thereby be known and distinguished; especially to put a mark of distinction upon *Slaves*, to prevent all Sedition by reason of them; and that they might be discerned from Persons of Quality and of ingenious condition. But the Project did not please *Ulpian* and *Paulus*, the great Lawyers of that Age, who alleged that it would give occasion to quarrels, if men were, by such marks, made liable to Affronts; whereupon, that Emperor contented himself with causing those of Equestrian Rank to be distinguished by the kinds of their *Clavus* or Studdes, and per-

U u 2

mitting

L. 3. de Pri-
miceriis Cod. Th.
Justinian interpretat.

L. 6. de Hono-
rariis Cod. Th.
Justinian interpretat.

L. 18. de An-
na et Tributa
Cod. Th. Justinian
interpretat.

Chron. Cod. Th.
Justinian interpretat.

A.D.
382.

L. 1. de An-
na et Tributa
Cod. Th. Justinian
interpretat.

Against the
Murci.

Valentinian or
Gratian makes
a Law about
Elections in
Corporations.

About Prece-
dence.

Sect. 3.

mitting old men to make Use of *Pemle* or Cloaks, Mantles, or a kind of Garment only proper for a Journey and bad Weather, but forbade Women to wear them in the City, though in Travelling they might do with Allowance. But, whatever *Ulpian* and *Papilius* might think, most indecorous both it was and is, that all Persons should confutedly wear the same Apparel, that a Slave or Footman should not be known from his Lord or Master, nor a Kitchen-wench from her Lady. In the best times Governours have been careful to restrain extravagancy in this kind; neither hath such great Inconvenience followed by Africans offered from one sort of Persons to another; for Slaves and inferior Persons may be known by other tokens; as by following their Masters, and by servile works about the Streets, if any have such desire to quarrel with them.

A.D.
382.

77. Therefore both in *Old Rome* and in the *New*, or *Constantinople*, certain Persons were distinguished by their Apparel; so as they might be known when one met them; which was by commanding or permitting certain sorts of Cloaths to be worn by certain Persons, and prohibiting the Use of them unto others. Both of these are enjoined by *Theodosius* in his new Law to the three sorts of men before mentioned. As for *Senators*, the wearing of some Apparel is forbid them; the Use of another sort is permitted them; and in a certain Case necessity of one kind of Habit is enjoined them. It was grown a fashion now for *Senators* and *Gentlemen* to wear the *Chlamys*, or Souldiers Coat in the City, either for that they thought it more gentle or less cumbersome than the Gown; but for as much as it is was the Military Habit, he commands it to be left off, and that in the City, which was the Metropolis or Head of the Eastern Empire, in a time of peace, the Robe of Peace and Civil Habit, viz. the Gown or other civil Garment should be worn, as well in the Morning as other times of the day, though the Senators thought they might, when they went to give the Emperor good Morrow, appear in that sort of Garb. But hereby he doth not infringe their liberty of wearing the *Chlamys* out of the Town, and neither for a bid it the *Palatine* Dignities or Officers which had been long wont to wear it in the City. Together with the Gown he will have *Senators* known by the *Co. alobium* and *Pemle*. *Colobium* was a short Coat without Sleeves, or else such as reached not to their Elbows, which as well as Shoes, it was not lawful for Slaves to wear; and besides it was studded or wrought with Purple. *Pemle* was a sort of Cloak, Mantle or great Coat, with an Hood or Capouche made of coarser Cloth, and fit only for cold and rainy Weather, as the *Colobium* for fair and serene, and therefore within the City the Emperor permits them the Use of it, which came first out of *Greece*, where it was used in these Cases as well as in Travel. In *Rome* it was first worn in wet weather by the *Tribuni Plebis*, and from them came thortly to be taken up by other Persons, at the sight of Plays and at Funerals, and as warm and convenient by old men; to whom *Alexander Severus*, as we said, permitted the Use of it; but forbade it women even in a Journey. Then at length came it to be the common Wear of all that so pleased; especially of *Senators*, who, as their *Colobia*, had also their *Pemle* distinguished by Purple. These two kinds of Cloaths they might wear in the City without the Gown; but he expressly commands "that in the Senate and in places of Judicature the Gown shall be used, and the other thrown off, when Senators were thither summoned or have any Cause to be tried." In former Ages all *Romans* were known by the Gown, it was a *Gens togata*. But they became weary of it by degrees, and *Senators* would often appear in the Senate-House in their Purple *Pemle*. *Adrian* endeavoured to bring both *Senators* and *Equestes* to appear always in publick in their Gowns, except they came from Supper; but foreign Fashions and new Drests got such ground, that *Theodosius* was well content, if in the Senate-House and Courts, he could but restore this grave and ancient Habit.

L. de Habitibus
qui sunt oportet,
infra Urben
Cod. Th. lib.
14. tit. 10.
de off. public.
a. ced. Joff.A. de Habitibus
Custas mat-
luz, trancon.Officials of
Judges.

78. The next sort of men he endeavours to reform are the *Apparitors*, or the *Officials* of Judges, or publick Ministers; to whom he assigns three sorts of Garments. The first is an inward Caslock or Coat, which he will ever have girt with a Girdle, as was wont of old to be the fashion for such men, and indeed all others; especially when they went about any serious business. Provided they were but then habited underneath, he allows them the Use of the *Pemle* above; but then they must also wear upon their Breast a *Pallium* or Breast-cloth of divers colours, thereby to make known their Condition. For in Garments of divers colours, publick Servants and Officers were wont of old time to go, and not much above an hundred years since, by an Arrest of the Parliament of *Paris*, it was decreed that

Bai.

Sect. 4.

Bailiffs should serve no Process, or Writs, except so clothed; a show of which we retain still in *England*, in the Coats of the Officers, or Servants belonging to our *Serjeants* at Law, who attend them first to *Westminster-Hall* in their solemn passage through the streets; and afterwards also for some time, in party coloured Coats. In the last place he regulates the Habit of *Slaves*, which was usually wont to be distinguished from that of other Persons. "He forbids them the Use of other Cloaths wont to be worn by persons of free Condition, only permits them the Use of those called *Byrrhi* and *Cuculli*; which though not properly be long to them, yet were, it seems, accounted the meanest, and vilest sort of Wears. The *Byrrhus* was a sort of Close Coat, for its straitness and uneasiness much despised; and the *Cucullus* was not that Covering of the Head, Cowl or Capouche, which hath more lately gone under that Name, but a mean and coarse covering, though with such a Capouch set to the Neck of it. Now for the penalty (without which a Law is without a sting) he will have such *Senators* as neglect to observe it, deprived of their Senatorial Dignity, and of power to sit in the Senate; and so far as he thinks the Condition of Officials, and Slaves not capable of shame, he subjects them to the pain of banishment. And whereas the *Censures* of the City, or the Officers under the *Magister Censur*, as we have seen already in the Case of Students, were the Keepers of publick Decorum and Decour; he imposeth a Fine of Twenty pounds of Gold upon their Company; if knowing any to transgress this statute, they reveal it not, whither out of connivance, or by money bribed to hold their peace.

He becomes
more severe.Against Sen-
tors that had
been *Cavaliers*.Against Agents
in *Rebus*.And Namers
in.

79. But for all this, so mildly did *Theodosius* behave himself, that thence ill disposed people still took occasion to defraud the Publick, and abuse his Clemency. When they owed Money or Tribute to the Treasury, they procured from him Receipts to the Officers, whereby respite was granted, for payment of the Debt; of which inconvenience, he became now so far convinced, that by an Edict he declared all such Receipts to be Void and Null. And now, whether he resolved to be more severe, or was put upon it by *Preculus*, the *Comes* of the East, against whose Cruel and Tyrannical Disposition *Libanius* inveighs; or else induced thereto by the great Regard he had to the good and emolument of the *Curie*; he declared by another Edict, directed to the said *Proculus*, that all such as had within Twenty years, from the tenth Consulship of *Constantius*, and the third of *Julian*, been advanced from *Cavalries* to the Senatorial Degree; should either be compelled to perform the Services due to the *Curie*, or if they had already discharged them, to substitute some in their Rooms, to represent them to the said Courts; which Law was purposely designed for the Corporation of *Antioch*. About this time, he seems to have received some complaints against the *Agentes in Rebus*, the Rapines and adulteries of which sort of men, as we have formerly seen, were frequent; which caused him to give directions to *Palladius*, the *Magister Officiorum*, for the careful choice of them, and great caution in their promotion. For their first Reception he will have none admitted, though he come with the Prince his Recommendation, without due Inquisition first made into his Manners, and Original; and that in the presence of the major part of the *Schola*, or Company. Then for their Promotion, that such as are received be not promoted to the first step of Preferment, or that of Horsemen, till after five years service, wherein they have been employed in frequent Missions. And the Promotion to each Degree as they fill in Order, must not be *per saltum*, as neither without the approbation, and consent of good and honest men. His hand being in, this year for Reformation, he extended it from that of the *Agentes in Rebus*, against the Insolence, Covetousness, and Rapacity of the *Numerarii*, whom he permits not to adore the People, or to come out of their Offices, till they have spent a full three years therein; whereas before, two years sufficed to that service. But when they were out, they aspired to Higher Dignities, and thereby escaped that strict Examination, and Inquiry, which even by tortures there was need to be made into their Manners and Deportments, which were often so bad, that instead of these three, five years were afterward required of them, within which they could not forsake that station, nor make a step into that of *Domschick*, which they so much desired. This he did for the Quiet of the people; having for that cause, before this Ordained that of these *Numerarii* (or *Tribunarii*, as they are also called), should be Ordained two in every Province; whereof one should take the Accounts of such matters as sell, or belonged to the Chief of the *Comes Rei private*, and the other, those appertaining to the other Treasurer, or

A.D.
380.

382.

L. 6. de Di-
cursu Receptis
Cod. Th. lib. 1.
tit. 2. De
Cens. 7. Kcl.
Mars. ad Flo-
ram, p. 2.L. 6. de Di-
cursu Receptis
Cod. Th. lib. 1.
tit. 2. De
Cens. 7. Kcl.
Mars. ad Flo-
ram, p. 2.L. 4. de Agra-
tibus in Rebus
Cod. Th. lib. 1.
tit. 2. De
Cens. 12. Kcl.
April. Auct. a
Cod. Joff.L. 13. de Nu-
merariis in Re-
bus. Cod. Th.
lib. 1. tit. 2.
De Cens. 12. Kcl.
April. Auct. a
Cod. Joff.L. 12. de Offi-
ciis. Cod. Th. lib. 1.
tit. 2. De
Cens. 12. Kcl.
April. Auct. a
Cod. Joff.

Comes

Sect. 3.

Orders of the
Prefecti Prætorio,
for Taxes to be con-
firmed by the Em-
perors.

A Law against
sturdy Beg-
gars in Rome.

Extraordina-
ry Taxes, and
fordid im-
poundments im-
posed in Italy.

he forbade them to obey the Letters of the *Prefecti Prætorio*, when they laid "new or extraordinary Impositions upon the Provinces; except they were con-
firmed by Warrant of the Prince himself. And as acceptable a Law he sent to
Rome not long after, directed to *Severus the Prefectus Prætorio*, (or of that
City) for banishing thence all Lusty and Sturdy Beggars. The greatness of the
Place afforded now such reception, and concealment to multitudes of People,
that slaves, and labourers, who were weary of service, resorted thither out of the
Provinces, hoping to find shelter for their sloth; which thing, very inconvenient
at all times, was now the more intolerable; for that in those days, this City was
often pinched with Want, and this constrained the Magistrates to expel the Town
all vagrants and useless Persons. He commands that those Beggars be discover-
ed, apprehended and fished, whether they were healthful and able to work;
if such they were found, and discovered to be of servile condition, they should
be forced back to slavery; if found to be free, but in service they should be
remanded to that (perpetual) service or labour at Husbandry, called *Colonatus*;
and for both sorts remain either slaves, or servants to the discoverers; which was
an effectual course to have the City swept of such Vermin. We may add that
the Christian Religion by its Principles, and Precepts inclining the Professors
thereof to more than common Charity; such Rogues abused the opportunity
which the truly poor and indigent thence had for Relief, and besieged those
places about the Vatican, and the Church of the Apostles especially; where they
wrought by their hypocritical complaints upon those that were compassionately
inclined, whether Ecclesiasticks or others. And *St. Ambrose*, Bishop of Milan, writ-
ing hereof at this very time, advises Clergy-men not to employ their Charity upon
such unfeeling persons, but to be careful and circumspect upon whom it was they
bestowed their Alms.

84. What we have lately observed out of *Zosimus* concerning the Motions in
Illyricum, and *Vitalianus* being sent to command there, some think to have fallen
out about this time. For throughout the Provinces of Italy, as well as in other places,
were new extraordinary Taxes, and fordid Impoundments imposed upon the
people; which, as *Valentinian* took care that they might not be without his
knowledge and consent, and thence occasion given to the Rapacity of his Officers;
So he took some pains to distinguish betwixt Things and Things, Persons and
Persons; that all alike, and confusedly might not be obliged to the same services.
Therefore in the first place, he gives order to *Hypatius the Prefectus Prætorio*,
that his Lands in *Africa*, particularly those called *Emphyteutice*, or held by Ten-
ants in perpetual Right, should not be subject to extraordinary services; be-
cause in way of exchange, and to be excused from these impositions, besides
the ordinary finding of Corn and other things, they paid a constant and certain
Rent in Gold. And whereas the setting out of Men and Horses was now used
and pressed upon the Provincials, for the expedition of *Illyricum*, or for that Re-
lief which *Theodosius* had required of him and *Gratian*; these belonging to the
Court were, it seems, also named to contribute towards the Supply, which caused
them to betake themselves to him by Petition, that they might enjoy their wonted
Privileges. This he grants them Commanding by an Edict directed to *Syagrius*
the *Prefectus Prætorio*, that the *Comites*, or *Magistri Memorie*, *Episcoporum*
and *Libellorum*; as also those who wrote in their several Offices, and dispatched the
Answers of the Prince, should be free from all vile and fordid Services, and also
from finding of Men, and money in lieu of them as in former times. This Priv-
ilege he also extends to them when gone from their Employments, or raised to
higher Dignities; who by other Constitutions were excused from the setting
out of Horses also for publick Service.

85. But so pressing still continued the Affairs of *Illyricum*, that by another Law
published toward the end of the year; he expressly forbade *Hypatius* to excuse any
Persons, of any condition whatsoever, from extraordinary Payments or Pretensions,
so as no Petition or Pretence should by any be made Use of. But as for bafe
or fordid Services, or Employments; he thinks fit to excuse no less than eight
forts of men. Such he terms the *Heights of Dignities*, viz. the Illustrious Persons,
whether Civil or Military, so often enumerated by us, the Prefects of both forts,
Magistri Militum, the two *Comites Largitionum*, & *Rerum Privataram*, the *Questor*,
& *Magister Officiorum*. In the next place the *Consistorian Comites*; next, the *No-*
taries; those belonging to his Chamber, as *Cubicularii* and *Excubicularii* also;
and all the *Palatines*, and Military Men in the Palace; provided they could show
that

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382.

L. un. de
iustitia Cod.
Th. lib. 1. tit. 1.
6. Dat. 7. Kal.
Jan. M. di. C.
L. un. Cod.
Th. lib. 1. tit. 1.

L. un. de Mi-
dicantibus non
revocandis Cod.
Th. lib. 1. tit. 1.
11. 18. Dat.
1. Kal. Jul.
L. un. Cod.
Th. lib. 1. tit. 1.

L. 13. de ex-
traordinariis
five fordidis
Cod. Th. lib. 1.
tit. 1. 1. 1.
Apr. P. P. C.
Th. lib. 1. tit. 1.
L. 1. de extra-
ordinariis
Cod. Th. lib. 1.
tit. 1. 1. 1.

L. 14. Cod. Th.
lib. 1. tit. 1. 1.
3. Kal. Sep.
Capua, & L.
no. qui. 1. Cod.
Th. lib. 1. tit. 1.
de extra-
ordinariis
maner.

Calvinia dig-
nitatem.
L. 15. de ex-
traordinariis
five fordidis
Cod. Th. lib. 1.
tit. 1. 1. 1.
ad Hypatium
de Decretis
& L. un. de
12. Cod. Th.
de excusatione
maner.

Sect. 3.

Sordid Servi-
ces what.

Several Pre-
fecti Prætorio
of Italy at the
same time,
and why.

that such Immunity did formerly belong to their Body, Company, or Dignity. "This Immunity he also extends to Churches, or rather leaves part of what he
found unto them; for they were wont to be excused both from bafe, and ex-
traordinary Services, by the Constitutions of preceding Princes; but as from the
one he now quits them, so he leaves them subject unto the other by this Law.
And in the last place he mentions *Rhetoricians* and *Grammarians*, both in the
Greek and *Latine* Tongues. Having told what Persons he will have excused,
he then declares the Particulars from what he excuses them, and enumerates
some fourteen which he calls by the name of fordid Services. These were Im-
poundments about Meal, Baking of Bread, and others relating to the publick
Bake-house: The finding of Carriage Beasts, and of labouring at the conveyance of
Materials, or other publick works; burning of Lime; furnishing of Timber for
Ships, Wood for Spears and Arrows, and Boards or Planks, all for the Service
of the Army; finding of Coals for the raising or repairing of publick Buildings;
traordinary works; labouring at the raising or repairing of publick Buildings;
the charge of Hospitals; the care of High-ways and Bridges; setting out *Thrones*
or Men to the War, or else paying the usual sum of money in room thereof;
and lastly, contributing to the expence of Messengers sent to the Court, and
those that Collected and Conveyed the Tributes to the Treasury. From all
these he excuseth the Persons before named, with these Restrictions, that when
there is need of supplying the Army, lying upon the Limit of *Rhetia*, Excuse
shall not be admitted from lading of Horses and Carriages; for it was exposed
to the Incursions of the *Allemanni*; and for that reason had its peculiar *Dux*
to look to the security of it, who at this very time had Employment enough, though
assisted by whole Legions, the work of which it was to be Convoys to such Pro-
visions as were sent to these distant and dangerous places. Then he declares that
the Immunity hereby granted shall be understood to be Personal, so as only to
continue for life, and not extend to their Wives or Heirs. And he excepts from
this Immunity such as were obnoxious to finding Coals, provided it were for
the Mints and making of Arms.

86. We shall further observe in reference to these three Laws, that they are di-
rected to two several *Prefecti Prætorio*, viz. *Hypatius* and *Syagrius*. *Syagrius*
seems to have been Prefect of Italy; for, the Edict which to him is directed, is
said to have been read at *Capua*. Now, what was said concerning the Plurality
of Emperors before *Constantine*, may here be applied to this time; That it caused more
Prefecti Prætorio in number to be made; to which this may be added that *Gratian*
also having governed in the District of *Valentinian* his Brother, by reason of
his Non-age, seems even still to have had a share in the publick Administration of
Italy; the *Prefectship* whereof at this time is observed to have been cut and
divided into several parts, though formerly one and the same intirely. Therefore
Syagrius is thought to have commanded only in that part of Italy lying to the
Right Hand of *Rome*, as *Campania*, (of which *Capua* was the Metropolis) *Apu-
lia*, *Calabria*, *Lucania* and *Bruttia*. As for *Hypatius*, to whom the first and the last
Constitutions about these Services are directed; the former being said to have been
published at *Carthage*, he seems to have had *Africa* for his share. And this must
be that *Hypatius* of whom *Ammianus Marcellinus* makes mention, Commanding
him for the sweetness of his Disposition, and affirming him to have brought both
Glory to his Ancestors, and Dignity to his Posterity, by the Aids of his Twofold
Prefectship. Whereas he speaks of two *Prefectships*, the one of the City he executed
two years ago, viz. in the year CCCLXXIX. and the last of the *Pretorium* in
that whereof we now write; of which *Ammianus* speaking as but lately past,
and calling him *Noster Hypatius*, as a familiar and intimate Friend; it is rationally
concluded that he wrote his History about this very time. To this same *Hypa-
tius*, this Emperor *Valentinian* directed another Edict five days after the Date
of the last; in behalf of those that belonged to the four *Scrinia*, or Offices in
the Palace so often spoken of. "Therby he signifies that he had caused a Levy
of Horses to be made for the War, at the Expence of the *Honorati*; but from
that Burthen he discharges them, both for the present, and the time to come.
The occasion of this Levy of Horses was for the *Illyrican* Expedition, or else for the
defense of *Valentinian* his own Territories, from the Inroad of the *Marcomanni*, *Quadi*,
and *Jutungi*; which in those days molested the Borders of *Rhetia*, and of *Illyricum*.
The Law it self is so full of barbarous words and expressions, that it seems composed
by some *Gall*, or one of Barbarous Original.

A.D.

i 83.

L. 3. de Præ-
torio Comitiis
etc. Cod. Th.
lib. 1. tit. 1.
Jan. M. di. C.
L. un. Cod.
Th. lib. 1. tit. 1.

L. un. de Mi-
dicantibus non
revocandis Cod.
Th. lib. 1. tit. 1.
11. 18. Dat.
1. Kal. Jul.
L. un. Cod.
Th. lib. 1. tit. 1.

L. 13. de ex-
traordinariis
five fordidis
Cod. Th. lib. 1.
tit. 1. 1. 1.
Apr. P. P. C.
Th. lib. 1. tit. 1.
L. 1. de extra-
ordinariis
Cod. Th. lib. 1.
tit. 1. 1. 1.

L. 14. Cod. Th.
lib. 1. tit. 1. 1.
3. Kal. Sep.
Capua, & L.
no. qui. 1. Cod.
Th. lib. 1. tit. 1.
de extra-
ordinariis
maner.

Calvinia dig-
nitatem.
L. 15. de ex-
traordinariis
five fordidis
Cod. Th. lib. 1.
tit. 1. 1. 1.
ad Hypatium
de Decretis
& L. un. de
12. Cod. Th.
de excusatione
maner.

Sect. 3.

Gratian
makes a Law
concerning
precedence of
great Offices.

87. It's something strange, that having so many Laws made by *Theodosius* and *Valentinian* this year, we should hear so little of the Emperor *Gratian* in this kind; for not one can we find which probably may call him Author, except it be a famous Constitutio concerning Precedence, which by *Valentinian* the third, some years after is said to have been of his making. Herein in the first place he supposeth and taketh for granted, that all others Dignities must give place to that of the Consulship, as to those possessed of it, should fit first in the Senate-House, and first give their Votes or speak their Opinions, even before the *Præfett* of the City, who by *Gratian* some years ago was declared to have place before other Dignities of *Rome*, nay, before such as had obtained the Dignity of *Patritians*, much more the *Præfetti Prætorio* and *Magistri Militum*; for these four, viz. the Consulship, *Patritiate*, *Præfettship* (whether of the *Prætorium* or *City*) and the Office of *Magister Militum*, Constitute the first Degree of Illustrious Dignities. Yet was the *Patritiate*, which was Instituted by *Constantine* the Great, rather an Addition of Honour to another Person, than any peculiar Dignity, it being added usually to other Titles, as, *Præfettus Prætorio* and *Patritius*, *Patritius* and *Magister Officiorum*; *Patritius* and *Magister Militum*, like as *Consul* was the (only) Addition to the Imperial Dignity. To this the Law made afterward by *Zeno*, might give occasion, by which he Decreed that the Honour of the *Patritian* (whereby Persons had the privilege to be styled *Parent* of the *Prince*) should be given to none, but such as had been *Consuls*, *Præfetti*, *Magistri Militum* or *Officiorum*. But *Gratian* as to the point of Precedence further determines, That if any Person should have been both *Consul* and *Præfett*, or *Magister Militum*, in such Case this twofold Dignity should give him place above the rest, that have only enjoyed a single one, though it were of the Consulship it self; for, the greater Cumulation of several Dignities carries the preeminence, although a Reception of the same Honour (as being twice *Consul*) cannot; which yet *Valentinian* the third thought as reasonable as the other. But if one that had been *Consul* had left his place to another who obtained two other Dignities, in Case he obtained a second Dignity he should recover his wonted Station, and that out of the great Respect given to the Consulship, even in these Days.

Theodosius advances his Son Arcadius to the Imperial Dignity.

88. In the CCCLXXXIII year of our Lord, and the eleventh Indiction, being the eighth of *Valentinian* the Second, *Fl. Merobaudes* the second time, and *Fl. Saturninus* were advanced to the Dignity of *Consuls*. For this year *Florus* and *Posthumianus* were *Præfetti Prætorio* under *Theodosius*; and under *Valentinian* *Fl. Merobaudes* and *Hypatius*. *Procus* was *Comes* of the East, and another *Hypatius* *baudex* *Comes* was *Præfettus Augustalis* of *Ægypt*. *Theodosius* made his Abode all this year at *Fl. Saturninus*, and *Valentinian* continued at *Milan*, till about *May*, and then retired to *Padua*, or *Verona*. As for *Gratian* we find little of him, till the declining of the year, at what time we shall hear of him upon too sad an occasion. In the mean while, to take things in the most orderly manner, and as they lay in time; before us, *Theodosius* thought it best to begin the year with the settlement of his own Family, to which he could no better way Contribute than by giving the Title of *Augustus* to *Arcadius* his Eldest Son, a Boy, now in the sixth year of his Age, which was performed on the sixteenth day of *January*. Having made him Emperor, he took great Care that he might have Education, and be instructed as became so high a place; and for that purpose, he had written to *Gratian* his Colleague, that he would send him some Pious and Learned Man, that might be fit for such an Undertaking. *Gratian* hereupon sent to *Damasius* the Bishop of *Rome*, to recommend a Man, who might pitch upon *Arsenius*, a Deacon of the *Roman Church*, a Person Eminent for Piety and Learning. When he was come to *Constantinople* he Committed his Sons to his Charge, and put them fully into his Hands, both for Knowledge and Morals, with these words; *Hence are you their Father more than my self*. On a time coming into the School, he found *Arsenius* the Master standing, and *Arcadius* the Scholar sitting as he was taught; at which sight he was angry, and expostulated with *Arsenius* for not preserving the Authority of his Office, to which, when he replied, that it did not become him to sit while he taught an Emperor, out of Indignation he took the Diadem from the Head of the Boy, made *Arsenius* sit down in the Chair, and *Arcadius* to stand, as became a Scholar, adding, that His Children would no otherwise be worthy of the Empire, than if to Knowledge they added Goodness. Yet did *Arcadius* so far forget that Gratitude which all wife and good Men have ever acknowledged due from those that receive their Education and a better Birth, to their second sort of Parents, that

A.D.
382.La. de de locati-
one Pandi Tit.
Empytrici.
Præ. Cod. Th.
lib. 10. tit. 3.
de 6. Cod.
Th. de omni
agro dictis.
Dat. ad No-
vidian Com. R.
P. 15. Reg. Tit.
Cogn.

Sect. 3.

Makes an Or-
der about the
Farming of his
Lands.

The Epibole.

He prohibits
any money to
be exacted by
the Messengers
of good News.

that being Corrected for his Faults, he would herein, also have made himself the Successor of *Nero*, by plotting against his Masters Life, from which Danger he escaped, departing secretly from the Court into *Ægypt*, where he afterwards lived and became famous for Sanctity. How base and ungrateful soever the Deceit of *Arcadius* was while a Child, his Cousin-German and School-fellow *Nepos* made better use of his time, being admired by *St. Jerome*, for that being brought up in the Palace, as the School-fellow of the Young Emperours, (whose Table the whole World furnished, and both Sea and Land did serve in the affluence of all things) and that in the first flour of his Age, he was of so modest Disposition as even exceeded that of *Virgins*; and though the Companion and Kinsman of the Prince, and Educated in the same way (which things are wont to breed suitable Dispositions) yet could he not be discovered to be puffed up with the least Pride, or Contempt of other Persons.

89. How *Theodosius* by this Promotion of his Son might please his Subjects of the Eastern Province, we know not; but the second day after, he Enacted a certain Law which doubtless would displease one sort of Men. The old Custom was, that the Lands belonging to the Emperor or Common-wealth were in the Hands of the *Decuriones* or *Municipes*, viz. held and farmed by Bodies Politick, or Corporations, and so were those belonging to the Temples, who paid their constant Rents, either to the Use of the Publick, or some of the *Pagan* Religion then obtaining. But after the dissolution of that false Worship, and that the Lands came to be laid to the Patrimony of the Prince, Both kinds had been taken out of their Hands, and put into those of private Men, probably to raise the greater Revenue; but it had not been done with such Care, but that the best or fertile were taken to Farm by those who understood their Trade, and the worst or unfruitful still remained on the Hands of the Emperor, and thus separated brought small or no Advantage to him. Now though we must needs say, that generally Emperours did not incline their Ears to New Chapmen, or such as would offer more, and turn out old Tenants; yet either for that the publick Occasions required it, or the less Fertile Lands lay generally neglected, whereas formerly they were wont to be let together with the better sort, *Theodosius* ordained, That in the like manner they should be added by way of *Epibole* (as it was called) or *Adjection* to the better; and if such as now held the most Fertile, would not take them with the Increase of a third part of the Rent, then New Tenants were to be admitted. If none of the could be found, he will have the Lands revert to the Antient Possessors, viz. the *Decuriones* or Bodies Politick, and that without any Augmentation or Addition of a third part required of the other, provided, they gave sufficient Bond or Caution for payment of the Rent. But thus were the Emperours often constrained to make this *Epibole* when barren Grounds were left upon their Hands. As for such as hold them by perpetual Right, he forbids that they be turned out of Possession, having by their Industry in Tillage brought them into a better Condition, notwithstanding any Decree obtained surreptitiously from himself to that purpose; and contrary to what the Antient Laws provided in that behalf; yet so as once it might be lawful to impose the *Epibole* or *Adjection*.

90. But whatever private Persons might think of this, or other Matters, now was the publick Joy by Messengers to be excited according to the Custom, for the Creation of a New Emperor, and Images of him were to be dispersed amongst the Provincials, who upon such occasions, out of Novelty were greedy to Contemplate the Countenances of their Governours. To prevent the Rapine which at these times was wont to be exercised by those that were employed upon such Errands; he published an Edict as his Predecessors had done. Prohibiting any thing or Reward to be Exacted of the People, for any Joyful News, either upon this occasion of New Promotion, ending a War, or that of a Victory; when the Emperours themselves received Consular Ornaments, or of a Peace. The Edict bears Date of the second day of *February*, a Fortnight after his Promotion, when all over the Provinces the People were running and gazing after those Pictures which were carried aloft, to be seen by Men richly Clad, and Adorned with Gold, before whom went a Trumpetter and gave notice to the Multitude, which, if pleased at the Sight, might below freely upon the *Gerulus*, or Bearer, what they thought fit, but nothing was to be Exacted or forced from them; if it were, by a Sacrilegious diffimulation, as the Emperor termeth, both the Receiver and Compulsor should incur Infamy and loss of Estate, and the Office of *Florus* the *Præfett*, to whom the Law is directed, a Fine of thirty pounds of Gold. The Emperours

A.D.
383.La. de locati-
one Pandi Tit.
Empytrici.
Præ. Cod. Th.
lib. 10. tit. 3.
de 6. Cod.
Th. de omni
agro dictis.
Dat. ad No-
vidian Com. R.
P. 15. Reg. Tit.
Cogn.La. de locati-
one Pandi Tit.
Empytrici.
Præ. Cod. Th.
lib. 10. tit. 3.
de 6. Cod.
Th. de omni
agro dictis.
Dat. ad No-
vidian Com. R.
P. 15. Reg. Tit.
Cogn.La. de locati-
one Pandi Tit.
Empytrici.
Præ. Cod. Th.
lib. 10. tit. 3.
de 6. Cod.
Th. de omni
agro dictis.
Dat. ad No-
vidian Com. R.
P. 15. Reg. Tit.
Cogn.

Sect. 3.

then Receiving Consular Ornaments is here expressed by *Honor* of the Royal *Trabea* given to the *Fastior* Register of the *Consuls*. The *Trabea* was the Robe proper to *Consuls*; and by giving the Honour of it to the *Fasti* is meant Inferring the Emperours Name into the Register, or publishing him to be *Consul* for the following Year, to which he gave, together with his Collegue, the Characteristical Note. But in this Law *Theodosius* makes no mention of the Consular Office of Subjects or private Men. For the Custom of declaring them *Consuls*, though formerly observed Solemnly, was now either grown out of Use, or at least nothing was now exacted for the *Mediæ*, which though known sufficiently, as to them, might yet be doubted as to what concerned the Emperours.

Further gratifies Corporations.

91. *Theodosius* further proceeded at this time to gratify the Corporations by recalling several back to their Services whom some Laws had excused, and obliging their Children, though set at liberty by former Princes. Yet would not he permit the *Decuriones* to hire or receive to Farm any Customes whatsoever, because excused from such Severities as were exercised against other sorts of Persons offending in such Offices; but here he excepts the *Diocesi* of *Aegypt*, partly because of the great Trade driven there at *Alexandria*, for which other sorts of people could not furnish a sufficient Number. In other places he will not have them receive in Farm the least sort of Custom with which the Senators of *Rome* were also Prohibited in former times to meddle in any such way. He would have them intent upon the business of their Corporations, from which he ordains that they receive no Immunity by Warfare; no not by Virtue of the Prince his Rescript; for, the Emperours usually forbade their own Decrees to take place when against the publick Good. As to Warfare, whereas both he and his Predecessors were wont to play an after-Game by an ingrateful forcing back such as had already served in the Wars, he resolved to prevent the Lifting and Entertainment of such Persons into Service, and for that purpose strictly required, that when any one offered himself to be Lifted, full Inquiry should be made into his Birth and the whole State and Condition of his Life, so as he was to prove himself free, both from Servitude, the Relations to Corporations, and other Conditions, which might render him unfit for Military Employment. The like Inquiries also were made into those who were admitted into the *Palatine Militia*, or the Emperours Court-Employments: as for such of them as had already continued therein for the space of ten years he yields, that they be discharged from any Obligations to the Courts of these Towns and Cities Corporate; in the stating of which time he differs from other Princes; for, some required more, and some less for the discharging of these Curial Ties, which gave Princes so much trouble. But *Theodosius* was so kind to his People, that as he would not prefer, the Sons of such as had Relation to Corporations before the Interest of them; but though the Fathers were excused (as Professors and others) yet they should be bound to discharge the several Duties to them belonging; and yet he would prefer the Interests of Sons before that of his own Exchequer. For, whereas *Valentinian* eighteen years ago, had made a Law, in favour of the Children of such Criminals as were Condemned and put to Death, he was now pleased to extend the same Mercy to their *Posthumous* Issue, or those that were begot, but not already Born; the Crime of High-Treason ever excepted, which excludes all the Children of Traitors from the Benefit of their Estates, that they may not have wherewith to Arm themselves against their Prince or Country. But that the Exchequer might not be defrauded, and to prevent supposititious Children, he Commands the Old Edict of the *Prætor*, in a manner, to be observed. He will have the Wife of the Condemned Person, after his Death, to send and certify the Governour of the Province, of her being with Child; and her self to go to the Municipal Magistrate, and Deposit in his Hands the Certificates or Testimonies concerning her Condition; and last of all, that she be kept and looked to, that all opportunity of Cheating may be prevented.

He prevents Abuses in the Exaction of Tributes.

92. To prevent another sort of Cheating, but of the Subject, he published about the same time several other Laws. Whereas the poor Provincials were compelled to rake great Journeys to pay their Tributes, and get rid of their Money; and that by reason that there was for a whole Diocesi but one Receiver, who was wont to reside in the Metropolis or Chief City; For the time to come he Commands this great Abuse to be rectified, by making, as need should be, more Receivers or Collectors in the same Diocesi. And that the People may not be constrained to pay the same thing twice, he Orders, that these Receivers

A.D. 380.

3 8 0.

Vidit Legem
res. de Deu-
an. Cod. Th.
hoc adu
detur. fil. a. L.
94.Excep. Dioc.
Aegypti.L. Quid proba-
re dicitur. Cod.
Th. lib. 7. tit.
11.L. 12. de Pri-
u. iur. cum qd
in S. p. lib. 11.
Cod. Th.L. 10. de Bi-
nis Propriet.
Cod. Th.L. L. L. 17. 18.
19. de Solu-
tibus Propriet.
q. Cod. Th.

Sect. 3.

for every sum received give an Acquittance, wherein shall be expressed both what, in what kinds, upon what Account, and in what Indiction it was done. And yet farther, because, in receiving Tributes in kind, they were wont to make their own Measures, and Constrain those that paid to give more than their due Proportion; he ordains That in every Station, that is, every Place where they were wont to be paid, certain Weights and Measures should be established. So, long ago, to prevent the Frauds of Tradefmen, it was not only the Duty of *Ædiles* to see that due Measures were allowed, but publick Measures and Weights were kept in the *Capitol*, by which all those of private Men were to be measured, according to a Standard, if any Controverſie arose thereupon; which the Emperours in succeeding times also took Care of, as occasion was; and *Prætextatus* the *Præfēt* of *Rome*, caused it to be practised in all the Regions of the City, as we have seen from *Ammianus*. But this Law is directed to *Posthumianus* the *Præfēt* of *Prætorio*, and that concerning Acquittances to *Flavianus* the *Proconſul* of *Aſia*. This is he who, contrary to *Theodosius* his Law lately mentioned, caused some *Decuriones* to be beaten or examined with Torture, for which Offence, while the Emperour Consulted how to punish him, he took Boat and conveyed himself away; and therefore, he turned him out of Office. But, for such as were behind in their Payments of Tributes; that no Violence or Rigour might be used; if the Debtor was a great Man, he ordered that the Exactor, or he that was sent to require the Arrears, should be one of the Officials of the Judge of the Province; if a *Decurio* then a *Decurio*; but if a mean Person, then one of their Proctors called *Defenſor Civitatis* should with all Justice or fidelity Compel him to the payment of his Due.

Forbids the straitening of Streets and Fences in Cities.

93. So much still was the Emperour inclined to yield to any thing wherein the publick benefit was concerned, that in another Cafe he declared that no Prescription of Time, nor his own Rescripts ought to obstruct it. But Complaint had been made by *Proculus* now Comes of the *Raſt*, that in *Antioch* the Metropolis and Eye of these Parts, the *Forum* or publick places were obstructed, to the great deformation of the City; with which this *Proculus* was the more concerned, for that at his own Charge, he beautified the place with spacious and convenient Streets, *Porticus*, Baths and *Formæ*. For this he is commended by *Libanius* the Sophist, who had reason to do it from his own Experience, having been once in danger of his Life as he passed from the Senate-House, by reason of the former straits of the ways. But to encourage *Proculus* in so laudable an Undertaking, *Theodosius* declares in an Edict directed to him, what we said concerning Prescription of time, and his own Rescripts, and Commands, that in all Cities such Buildings be pulled down as were erected on publick Ground. And herein he did better in gratifying him, than in other matters which he also desired. For, if credit may be given to *Libanius*; though *Proculus* was to be commended for publick works he made at *Antioch*, yet was he Tyrannical in his Government, and left it in disgrace, as the Sophist relates in his Oration to *Icarinus* his Successor. Therefore to his suggestions is ascribed the Rigorous forcing back to the Court of *Antioch*, or other places, such as had aspired to Senatorial Dignity, which this Emperour by an Edict to him directed doth enjoyn. But this is nothing so sharp as what he ordered concerning the Principals of the Officials belonging, to him or other Governours of Provinces. "For he not only Commands that they be returned back to their former Employments; but also be Chastised with Plummetts: a punishment Cruel and Servile, but such as through the Cruelty of Judges was in this Age grown too Common, and gratified the Tyrannical and pitiful Humour of *Proculus* towards those, who were the Officers belonging to his place, and, during his Government, subject to his Command.

Valentinian Concerns himself for his Revenue.

94. But let us leave *Theodosius*, and see what we find of *Valentinian* in the West, before we come to tell the sad Story of his Brother. We find him in the first place concerned for his Revenue, that no Senator might escape the Payment called *Glebalis Collatio* due from his Lands, whether he was borne to that Dignity, or had been preferred to it only through the Bounty of the Prince. "To this end he requires that every one of that Order, give into the Senate a true and full Particular of his Lands, upon pain of forfeiting whatsoever he Concealed, which was the usual course taken with Concealed Goods in point of Customs. And whoever attains to the Dignity of *Consularis*, either as Governour of a Province, or by Codicils, before he enjoy or execute his Place, he will have him under his hand to own the Payment due from Senators; to declare where his Habitation is, that there the Payment may

A.D. 380.

3 8 0.

L. 12. de Ex-
actionibus Cod.
Th. lib. 1. tit.
7. Dat. ad
confutandam
Vicarian Pen-
sionem. Añſi a
a Cod. Joph.L. 22. de de
operibus publi-
cis Cod. Th.
Dat. 3. lib.
7. Tit. 11.
Joh. Hæc
Proculus. X. N.
a Cod. Joph. tit.
11.L. 90. de De-
curionibus.
Cod. Th. Añſi a
Cod. Joph.L. 14. de Co-
mmodatibus Cod.
Th. Añſi a
Cod. Joph.L. 2. de Sen-
toribus & de
glebalis Collatio.
Cod. Th. lib.
6. tit. 2. Dat.
ad Hyppatium
& ad Jem.
Añſi. h. L. pa-
riter ut reli-
quis legibus
Titulus a Cod.
Joph. propri-
etatem colla-
tionem publi-
cam.

Sect. 3. be Exacted; to give also a full Account of his Possessions, and thereof to send in a Schedule to the Office of the *Comes Longitimum*, that thereby may be known what Accession is made to the Emperour's Revenue. These Rules he will have observed by those Senators that had Possessions. As for those that had none, he will yet have them pay the two Follies formerly mentioned, which also, whoever is admitted to the Dignity of *Consularis*, or to any of the higher sorts of Offices is bound to acknowledge, and promise to pay. But from this Obligation he excepts such as had been made Senators for having faithfully discharged the *Palatine* Militia, or Offices in the Court. But though he allowed this Privilege to those Persons in a matter wherein his own Profit only is concerned, yet will he not approve of Immunities, obtained by particular Men from the usual Imposition or Tax upon Lands, because what thereby would be granted to a few, would tend as he faith to the Detriment of many. Therefore will he have them all taken off; and to shew an Example himself, he renounces all such as had been granted to his own Possessions; hoping thereby all others concerned would be sufficiently satisfied. And he commands *Probus*, to whom the Edict is directed, that he establish this Order, through all *Italy*, as also through the *Urbicarian* and *African* Regions, and through all *Illyricum*. By several others mentioned as *Præfets* at this time, we may perceive the *Præfets* of *Italy*, lately broken, and bestowed into so many Hands, was not yet again united in the Person of this *Probus*, of whose long and reiterated Power in this Nature *Claudian* the Poet might well sing, as he doth to his Relations; so often did he enjoy the Prefectship and so long a time, as we have seen in the Reign of *Valentinian* the Elder. But yet now he was *Præfets* over no less than four Districts, and we see that *Italy*, the *Urbicarian* Provinces, *Africa*, and *Illyricum* were all really distinct one from another, and not one in another comprehended. By *Illyricum* is all that Tract of Ground to be understood which was divided afterward into Eastern and Western. "In the last place, the Emperour Commands *Probus* to establish this Law, or confirm it, by which is only meant publishing it with an Edict or Order of his own. For in those times the manner was for Magistrates to publish or expose to View, the Constitutions of Princes, in such manner, as first the Constitution should be recited, and then the Edict of the Magistrate follow, like as the Parliaments of *France* declare or publish the Edicts of that King, which they term *Verifying*; not that the Royal Decrees there receive Authority from their Arrests, but that there must be some way of Solemnity to establish the Truth and Certainty of the Thing.

95. At this time there were such frequent Robberies Committed, and such swarming of Thieves in the Countries about *Rome*, that even Persons of Quality durst not Travel; particularly *Symmachus*, an Eminent Man in those Days, chose rather, as he faith, to Maccerate himself in the City, of which he was sufficiently weary, than expose himself to so great Hazard. "This drew from *Valentinian* an Edict against the Harbours and Concealers of Robbers; and because such Soldiers as had fled from their Colours, usually took up that Course of Life, in the former Part thereof he declares how such as give them Shelter, shall be punished. If the Offender was of mean Condition, he Condemns him to be beaten with Rods, to the Mines, or Deportation; if within two Months (*Theodosius* this year allowed six) he did not discover such a Fugitive to the Ordinary Judge of the Province; if of higher Condition, he imposes on him the Penalty of finding ten Soldiers for the War, or else paying fifty pounds of Silver, which was just the same Value. Such punishment were the Masters themselves to undergo; but if their Stewards or Agents herein offended, they were to Answer it with their Lives; but this was to be understood of such Fugitive Soldiers for whom satisfaction had not been made. But in the Discovery this Course was to be observed, That first they were to be presented to the Governors of Provinces where they were taken, who after Examination, was to send them away to the *Præfets*, by whom they were to be punished, except the *Præfets* or *Magister Militum*, or others who had Authority over Soldiers in matters Capital, were at hand. But against the Harbours of Thieves or Highway-men he shewed himself still more severe. "For if any one knowingly entertained them, or refused to discover them, he ordains he receive the Corporal punishment, or forfeit his whole Estate at the Discretion of the Judge, if he be Master of the House; if a Servant or Officer, that he be burnt alive.

96. But yet still did the poor Provincials miserably complain of the Inequality of Tax-

He takes off Immunities as to Taxes granted to particular Men.

Frequent Robberies about Rome.

Valentinian endeavours to prevent them.

A. D. 383.

L. si per Obsequium jurata cad. Th. lib. xi. tit. 1. §. 1. Kgl. Edr. Adh. a cad. J. §.

Sinceritas tax id ipsum per omnes utilitate tam per nobiles affluens, ut per omnes illi, cum, Præfets, et præfets huius assiduit, firmabit.

Lib. 2. Ep. 22.

L. 8. de iust. Cod. Th.

L. ult. de titi qui latrones Cr. Cod. Th. lib. 9. tit. 27.

Sect. 3. Taxes, that some escaped Scot-free, through pretended Privilege, while others bore the Burthen that were less able to pay; and the matter grew so high, that though little more than a Month had passed since *Valentinian*, as we have seen made a Law against all such Privileges, yet was he now forced to add a second, more large and efficacious than the former. For in this, directed to the People, having found that the *Tabularii* of Cities, whose Employment it was to keep the Cads Books, and give out Copies to the Collectors, were very faulty in adding or diminishing as they pleased, he Commands they be burnt alive, if moved or overcome by the Fraud, Entreaties or power of any whatsoever, they admitted of any pretended Immunity. But he directs that the Cads be equally laid, by Consent of the Provincials confirmed by the Prince, having first been equally taxed and adjusted by the *Consistors*, assisted thereto by the Authority of the Ordinary Judges, and the *Consistors* *Prætorio*. And whereas Notice was taken that several Persons newly come from Court, and eminent for their Power and Dignity, often injuriously treated the Provincials, sometime spoiling them of their Goods, and otherwhises of their Liberty, nay, perhaps of their very Lives; and this under pretence that they had Warrant from the Emperours for their Actions, *Valentinian* by a Law sent to *Eusebius* the *Proconsul* of *Africa*, Ordains that No Person shall be credited, be he *Tribune*, *Notary*, or of the Degree of *Comes*, when he alleges the Prince his Orders, except he produce the same in writing: And hereby he lets the People know that they should not be frightened by their big words or Looks. He intimates in those who were (as we have seen out of *Ammianus*) Extraordinarily sent upon various Errands from the Court. These were wont to receive their Instructions in a certain form of words fitted to the occasion, and possibly sometimes secret Orders (*secreta Mandata*) and by word of Mouth; but it being easy to pretend such, and great mischief thereon ensuing, he Commands, that no Credit be given to them. And indeed whereas the Parties concerned were Courageous, they would not obey such Orders, and therefore it behoved the Messengers themselves to have a certain Rule of Direction, that it might not be laid to them, that they exceeded the Limits of their Commissions. Therefore when such *Tribunes* and *Notaries* were sent into the Provinces upon publick Business, sometimes they would publicly expose their Commissions, that their Authority might not be questioned. And as no Messengers from the Prince were to be credited, except they produced their Warrants; in like manner to the Messengers sent from the Countries to the Emperour, no heed was to be given, except they produced their Instructions in Writing; so that, that called *Libera Legatio*, whereby Power is given to those Employed, to Act as they shall see Cause, and what they think fit, is hereby disowned.

97. By a Letter written from *Symmachus* to this *Eusebius*, *Proconsul* of *Africa* this year, and afterward advanced to be *Præfets* *Prætorio*, it appears, that the City of *Rome* was threatened with Famine, by reason that the *African* Provinces, whence it was wont to have its Supply, afforded not Corn sufficient for the bare Sustainance of their own Inhabitants, and for the year following were to be supplied with Seed from other Places. This Condition of *Africa*, *Eusebius* had before made known to *Symmachus*, who thereupon advises, that Recourse be had to the Princes, and that in the mean time, he would Relieve, as well as he might, those that were committed to his Charge. We find not any Edict made in any sort with reference to this Occasion; but as *Theodosius* this year very much concerned himself with the Interest of Corporations in the East, so by a Constitution directed to *Eusebius*, as well as by others to other persons, we perceive *Valentinian* at the same time, no less Zealous for those within his District. "Hence also Commands, that such as were born to the Services of the *Curie*, shall not be excused under pretence of the Military Employment, except they have continued in the Wars fifteen years, whereby he seems to Repeat what he had Ordained the year preceding, as to this same Diocese of *Africa*, That none should be excused, without he could allege he had served five years; and that, for the time to come, the *Curiales* should be excluded from Military Service. But from the wording of this Law, we learn, that to fifteen years, are counted three *Lustrum* so that it need not be doubted, how much time the later *Lustrum* of the *Romans* did contain, viz. just five years. And whereas the Emperour here insists upon fifteen years, *Gothofred* conjectures, it is for that in the Reign of his Father so many years ago and more, from the beginning thereof, these Provincials, as we have seen, were dreadfully harassed by the Barbarians, provoked there-

And the Fruits of Tabularii.

He forbids pretended Messengers from Court to be believed, except they produce their Instructions in Writing.

Africa and Rome threatened with Famine.

Valentinian Indulgent also to Corporations.

A. D. 383.

L. ult. de C. et si Cod. Th. Dat. ad Populum Non Mart.

L. de de Mandatis Præfets. Cod. Th. lib. xi. tit. 1. §. 1. Kgl. Edr. Adh. a cad. J. §.

Symmachus Ep. ult. lib. 4.

L. 95. de Verborum significat. Cod. Th. Dat. 4. Kgl. Mart. Med. Adh. a cad. J. §.

Post quidem in verispendia, vicissim prius Ordinis litterarum, qui si tribus lustris affligit mississis, et neq. bellis necessitatibus negat munitibus militariibus obstruere defugit.

Sect. 3.

to by the miserable negligence of the Officers of the Army, and the Villany of *Romans*, which provoked, or encouraged many of the *Curiales* to go into the Field for defence of their Country; and as this might be a Reason why *Valentinian* would be a little Indulgent to such Persons, so might it be an Inducement to his Father, fifteen years before, to grant, that five years Warfare in *Mauritania* should excuse from the Service of Corporations. But as to this Indulgence, granted both to Souldiers and the Palatine Officers, Emperours have differed, and the same Prince ordained several things as to the Term which should excuse them, according as Circumstances of Time and Place have differed. But to be sure, there was much Stir made by some Persons at this time, to escape the Burthens of these Bodics Politick; and some attempted it, by Pleading, that by the Mothers side, they belonged to other Corporations, which being less, and consequently, the Charge of them below that of others, they would needs remove themselves to them. Indeed in the *East*, in the District of *Theodosius*, such Privilege had been granted to the Inhabitants of *Ilium*, *Delphi* and *Pontus*, that if a Man by both Parents was obnoxious to these Courts, he might use the Benefit of his Mothers Relation; and probably some other places in the *West*, and under the Jurisdiction of *Valentinian*, had obtained the like Immunity; but he abrogates all such by another Law, and whatever Custome there might be for it in the Pro- vince, founded upon some such antient Grant: He propounds the Example of the *Senatorial Order at Rome*, wherein the Son followed the Condition of the Father; were the Mother of any other Rank.

Gratian's last
Edict against
the Rapacity
of Governours
of Provinces.

98. The Course of matters now brings us at length to *Gratian*, of whom it's a wonder we have nothing all this while; that the Countries subject to his Command, should afford no work for his *Quæstor*. But this we are willing to Attribute to his former Care and Vigilance, for the more Laws any Nation wants, the more are Grievs and Necessities; for it cannot be supposed, that if Healthful and free from Distempers, the Prince its Physician, would be ever and anon tampering with it. But notwithstanding, let none out of Ignorance, because he Reads of so many Laws now made by the Roman Emperours, for this one Reason, conclude the Empire to have been of a very sickly Temper; if so, the Disease lies in his own Head, which will be Cured by a Receipt of *Geography*, when he views the vast Tracts and Circumference of the Roman Pale. I suppose the Reader an Inhabitant of what was once some small pittance of the Empire, where he cannot but take notice, how many Edicts or Acts of State pass for the Government of even that small Plot of Ground. But when he surveys all the Provinces of this flourishing Dominion, from Mount *Atlas*, and the Straights of *Gibraltar*, passes as far as the utmost Extent of *Mesopotamia* and *Ophracena*, and from the Banks of *Danubius* Crosses to the Southern Borders of *Aegypt* and *Mauritania*, he will not at all wonder that we make mention yearly of so many Laws. But to come to *Gratian*, though he published no Edicts at this time for particular Direction in any point of Government, yet herein he seemed best to provide for his People, and take his Leave, by ordaining something for the Government of those who were subalternately governing them in their several Provinces; to prevent their Rapacious Prying upon them. Of their boldness in this point, some Complaint was made to him, not long before his Death, how besides their ordinary Allowances they were wont to exact of the Provincials, Money or Provisions for maintenance of their Houses. Upon hearing and deliberating hereof, he declared in Consult, that every Judge or every Governour of a Province should himself furnish his *Prætorium* with Conveniences, and that neither to him nor any *Comes* should be more allowed, than by Imperial Authority, was granted in those Allowances they called *Auonæ* and *Cellaria*. By these two, generally are meant all Necessaries for Expence, and the Salaries of the Judges; which were also allowed to all, whom the Emperour sent for to Court, or dispatched elsewhere upon publick Business, both in the Mansions upon the way, and in the Places where they staid. But, as we have formerly said, by *Cellaria* are properly meant Wine and Corn, or Necessaries for eating and drinking; by *Auonæ* all other sorts of things, as Gold, Silver, Clothes, Provisions for Horses, Attendance, Firing and the like. The Houses wherein they lived and administered Justice, were called *Prætoria*, usually placed in Cities that stood upon the High-ways or Streets, and furnished at the publick Charge, by a Set Allowance; But they were wont to live high, and exceed their Bounds, both the ordinary Governours and the Military Officers, or *Comites Rei Militaris* here

A.D.
383.

Videtur
100 illius th.
Dio. 19. Nel
Mati ad Ipp.
P. F. F.

L. 1. 2. D.
ad Ulpian
Ceo. S. L. 15.
Nel. Fel. Col.
To. C. L. 5.
Ced. J. 1. 10.
tit.

Vid. L. 2. de
munda Parti-
munitibus
Ceo. Fel. Col.
tit. 11. tit.
61. de Noto.

L. ult. de offi-
cio Judicis
Ceo. Fel. Col.
tit. 11. tit.
61. de Noto.

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here mentioned. This Abuse now *Gratian* endeavoured to prevent by this his Farewell to his People, it being the last Law we find that was made by him, as it is placed in the Code, although it bears no Date of Month or Day.

Maximus re-
belli against
him.

99. For in the month of *August* of this year he perished by the treason, some say of *Merobaudes* (or *Mellobaudes*) a *Magister Militum*, to be sure by the ambition of *Maximus* a Commander here in *Britain*. That *Maximus* was a *Briton* born, some will gather from the words of *Socrates* the Ecclesiastical Historian; and so *Christophorus* on our own Country man translates them; but being narrowly looked into they will scarcely be found to ascertain any thing more, than that he rose and fell upon the Roman Empire from the parts of *Britain*. It matters little what Country it was that brought him forth; but *Zosimus*, who seldom agrees with other Writers, faith expressly, that by birth he was a *Spaniard*, and tells another sort of story concerning the occasion of this Rebellion, and the death of *Gratian*. Fetching his Narration from the Motions lately spoken of in *Ulpianum*, he writes, that, during those Stirs, this Emperour was imbroiled in no small disadvantages. For, yielding to those who in Courts are wont to corrupt the manners of Princes, he kindly entertained some fugitive *Alans* which were lifted in the Army, conferred on them great gifts, and so highly esteemed them, that in the mean time he seemed to make no reckoning of his own Soldiers. This brought him into no little odium amongst his own men, which daily increasing, at length drove into a seditious humour, amongst others, such as served here in the *British* Isles, who more indulged themselves in contumacy and peevishness than the rest. And they were further enraged, he faith, by *Maximus*, a *Spaniard* by Nation, who had been fellow-souldier with *Theodosius* in *Britain*, and took it in disdain that he should be accounted worthy of the Diadem, and himself of no honourable Place or Office. They being easy enough to be wrought on, conferred on him the Title of Emperour, gave him both a Diadem and Purple, which he had so long desired, and without delay shipped themselves and passed even to the mouth of the *Rhine*. The Armies that lay in that quarter were not difficult to be won, and joyn with them; but then *Gratian* came and offered them Battle, while no small number of the Souldiers still continued in their Fidelity. And when the Armies approached nearer, for five days they skirmished one with another, till the *Moors* all of themselves revolted, and gave to *Maximus* the Title of *Augustus*, while the rest also followed by little and little; which *Gratian* perceiving, and that his Affairs here were desperate, with three hundred Horse fled towards the *Alpes*, where when he found no security, he turned off toward *Rhetia*, *Noricum*, *Pannonia* and the upper *Myfia*. *Maximus*, though glad of the advantage, thought he was not to be suffered so to escape; but dispatched after him one *Andragathus*, his *Magister Equitum*, born near the *Euxine* Sea, who seemed to be faith and faithful to him, with such Horse as he thought would best hold out. He following on the Pursuit with all diligence, overtook him as he was going to pass the Bridge at *Singidunum*, and there killed him; by which Act he more established *Maximus* in his newly acquired Empire.

Zosimus his
story thereof.

100. Here *Zosimus* acquaints his Country-men, the *Græcians*, that it will not be amiss, but worth the while to tell them a story, which being commonly committed to memory is no whit impertinent to the present Purpose. In the Colleges of the Priests at *Rome* those called *Pontifices* held the chiefest place, which word, if translated into Greek, must be termed *Gephyrai* from Bridges, which name they got upon this occasion. At such time as Mortals were ignorant of that worship which afterward was rendered by Images; those of the Gods were first made in *Thebes*; but whereas (you must know) there were neither yet any Places to put them in (for the Use of such Houses were also unknown) they placed those Representations upon the Bridge of the River *Peneus*, and from the Bridge those who presided at the worship thereof were termed *Gephyrai*. Thence took the *Romans* their Title of *Pontifices*, and bestowed it upon their chief Priests, and withal ordained that their very Kings should be reckoned in their number, for the excellency of their Dignity. The first that obtained this Honour was *Numa*; after him all that went under the Name of Kings, and long after them *Octavianus* himself, and such as succeeded him in the *Roman* Empire. For as soon as any one came to be Emperour, he was presented by the *Pontifices* with the Sacerdotal Robe, and upon receipt thereof saluted with the Title of *Pontifex Maximus*. And all other Princes with a most willing mind received the Honour, and used the Title, and even *Constantine* himself, though (faith the

Y y

Pagan)

A.D.
384.

Μετ' αὐτὸν ἐκ
τῶν αὐτῶν
Ἰπποκράτους
ἐκ τῶν ἐκεί-
νων ἀπέ-
βηκεν ὁ
Μαξιμιανὸς
ἐκ τῶν αὐτῶν
ἐκ τῶν αὐτῶν

ἰσχυρὰ τὰ
ῥήματα

Sect. 3.

Pagan he forsook the right Path in Religious matters, and embraced the Faith of the Christians; and after him the rest in order, as far as *Valentinian* and *Valens*. But now when as, according to the Custom, the *Pontifices* presented *Gratian* with the Robe, he would by no means accept of what they offered, being of opinion that it was unlawful for a Christian to use the Habit. The Robe then being returned to the Priests, it was reported that He who was the chief amongst them said, that if the Emperor would not be *Pontifex Maximus*, in a short time a *Pontifex* should be made of a *Maximus*. And such end had the Empire of *Gratian*, saith this Historian, whose Tale concerning the *Pontifices* being named from that Bridge of *Pons* is very pretty; and more pretty indeed than the story *Plutarch* relates concerning their being so named from the Bridge called *Pons Sublucius*, however ridiculous this Grave Writer esteems it; for it is easier to imagine them to have received their Name from a Bridge of their own, where Sacrifices also were offered, than from one distant so many hundred miles, at such a time when Travelling and Geography were not much in Use. As for his story concerning *Gratian* his being the first that renounced the Title of *Pontifex Maximus*, and refused the Robe, it's said by him, and deserves no credit, as we shall see in its proper place. But for his being killed at *Singidunum*, and as he was to go over the Bridge there, it deserves least belief at all; the concurrent Testimony of all Writers besides himself, being that he was slain at *Lugdunum* or *Lyon*. And *Baronius* would have the one mistaken or false copied for the other; but this is because he never considered what the man so idly talks of his flying to *Rhætia*, *Noricum*, *Pannonia* and *Myisia*, for in this Tract it was, that *Singidunum* and not *Lugdunum* is to be found. *Zosimus* this once was a better Geographer, we must acknowledge, than to look for *Lugdunum* here; but he was vilely mistaken in his Countries, and his Arithmetick.

The true Account.

101. For all other Writers, as we said, agree that *Lugdunum* in *Gall*, was the place where he was killed, which was accompanied with these circumstances. That the Traitor might render himself more acceptable to the Souldiers, he pretended he was joyed in Affinity with *Theodosius*, and that as it were by his Consent and Allowance he set up for himself; nay he gave out, that he was defended of the Blood of *Constantine* the Great, of which this is some evidence, that he took the Cognomen of *Flavius*, for he called himself *Fl. Clemens Maximus*. But if he was thus defended, probably it was by the Mothers side, for so, if a *Britann* born, he might proceed from the Parents of *Helena*, the Mother of *Constantine*, which some reckon of *British* Blood. When first he rose up in Rebellion, *Gratian* despised him as a mean Man, and of no Interest; and therefore he only set the *Alans* against him, whom he had procured for money to serve in his wars. The old *Roman* Souldiers took this very ill, looking upon it as an Affront, that he should prefer Barbarians before them, in the point of Fidelity and Courage, and in anger revolted to *Maximus*, who promised them all kind things imaginable. Hereat the Emperor affrighted, left *Trier*, where he had continued the month of *April* (as some pretend to find) and retired to *Paris*. The Usurper having notice hereof, and easily repulsed the *Alans*, followed him with all the haste he could make, and for five Days, being incamped near to one another, they skirmished in Parties, till first the *Moors* and then the rest deserted their Prince. Hereat some dismayed, with three hundred Horse he fled Southward, and, being denied admittance in other Cities, came to *Lyon*, and was, not long after, followed by *Maximus* and all his Forces, who first endeavoured by plain force to destroy him; but, when that would not do, betook himself to crafty Devices, wherewith he hoped, and that not in vain, to intrap him. He caused it to be given forth, that his Wife was coming to him, and intended to meet him on the hither side of the River *Rhone* which runs by the City. Then did he place in a Wagon made like a Litter, carried by Mules, not any Lady but a Russian, *Andragathus*, though he made the Report to go that it was the Emperess her self; and the Plot took effect. For the poor Prince overjoyed to hear that his Wife was at hand, went forth to meet the Litter, with a few Persons, whom *Andragathus* perceiving near at Hand, leaped out with his Companions, and slew him in the Place: some say he was betrayed by *Merobaudes* the Consul; but so he perished when he had been *Augustus* full sixteen years, and lived about eight and twenty; on the twenty fifth of *August*.

102. A Prince, on whom Envy and Prejudice themselves can fasten no ill Character. Malice himself, or *Zosimus*, tells us, indeed, that he gave heed to such as are

A. D.
383.

Quam. vid. i. 7. Sams.

Sextus. 3. 11. Alii. vidi. Signat. on. lib. 8. de. Quodammodo. Imperio de. Romanis ad. 383. Clonius. In. Cod. Theod.

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The Church given him by Pagan Writers.

are wont to corrupt Princes, but nothing in particular as to his ill Morals: no doubt but he stood in great need of materials whereof to raise a Calumny. But *Ammianus* to tell us of his being drawn aside by Flatterers, yet not wherein; only he instances in his imitating *Commodus* in the killing of wild Beasts. A very great matter! an heinous crime for a young man of his years to delight in Hunting, and in so dextrous a way of killing; this is so idle an Objection, that though we prize *Marcellinus* very much; yet when we consider how vastly this Prince his humour differed from that of *Commodus*, nay how nothing he had suitable to that Monsters disposition, except what was harmless, we must needs excuse the wonder that *Baronius* justly conceives of this Authors meaning, that when he praises him, he should also blame him for following *Commodus* his course of life. And we must with him needs esteem him Partial and harsh against Christian Princes, and be of the Opinion, that had he known any thing ill by him, he would not have concealed it; especially *Zosimus*, who believing him to have been the first that refused the Title and Robe of *Pontifex Maximus*, could he have done it, would have cast all the Dirt upon him imaginable. In that he followed his Sports, and minded not the Affairs of the Empire so much as he should have done, as these Writers allege, he shewed himself young in years and guilty of that Neglect which many Princes of that Age are to Answer for; but which yet those amongst them that are well inclined usually make Amends for, when they come to riper years. But why may we not consider what great Commendations are given, and amongst the rest what Encomiums, by *Ammianus* his Schoolmaster, who had better reason than any other to know his Humour and Natural Inclination. It's true, what he saith is in a Panegyricall Oration, wherein he gives him thanks for the Honour of the Consulship he had put upon him; but yet the Oration being to be made publick he cannot lightly be presumed to have affirmed what he knew would be contradicted and laugh at by all that saw or heard it; the matters thereof being fresh in memory.

By Ammianus his Schoolmaster.

103. And the first thing he commends him for, we may easily believe, viz. "That the Palace or Emperors House which was terrible before, (in his Fathers time)" he by his Clemency and Mildness had rendered pleasant and acceptable; the Courts of Justice formerly full of miserable complaints he by his favourable Decrees had made full of Acclamations and good Wishes. And the Bed it self, which was ordained for Rest and Quiet, was become more full of Repose through that tranquility he had procured to troubled and despairing Persons. All this as sufficiently attested by what we have already written concerning his giving a stop to those bloody persecutions that were set on foot in his Fathers Reign. "But he further saith, that he was a valiant and warlike Prince; and for this he produces the Testimony of the limits of the *Danube* and the *Rhine*, they being freed from all Hostility in one year; that he was most Munificent, he alleges the Experience of a Rich Army: for his great Willom he instances in the settlement of the East in so good a posture, meaning the promotion of *Theodosius*; and for his Piety or Dutifulness, the consecrating of his Father with Divine Honours (as he terms it, which was by reckoning him among the *Dei*) the preferring (or rather receiving) his Brother, as he did, to be his Colleague in the Sovereign Power; his vindicating his Uncles Fame when dead in War, by revenging his Death upon the *Goths*; his making *Ammianus* and his Son both *Præfets*, and at last advancing him, his Schoolmaster, to the highest Dignity of Consul, having also formerly procured him the place of *Questor*. As the custom of other Emperors was; he affirms that he might well assume the Surname of *Germanicus*, from the submersion of the *Germans*, *Allemannicus*, from the Number of Captives; and *Sarmaticus* also, for his Conquering and Pardonning of that People. Now that he defeated an Army of the *Allemans*, consisting of thirty thousand men at *Argentarium*, a place in *Gall*, Writers affirm, and probably enough, he perfected the Design of reducing the *Sarmatians*, of which his Father was frustrated by Death. But these things were memorable in *Gratian*, as a publick Person. As for his private Inclinations, Demeanour, and Qualities both of Mind and Body, "He affirms him, in the first place, to have passed no one day from his Youth without Prayer to God; without making some Vow, and discharging himself of it with an immaculate Conscience and a Pure Mind; nay, with thoughts true and upright; and to be sure with clean Hands. In Eating, no Priest could shew himself more ceremoniously abstinent; in Drinking, the Table of no old Man whatsoever could be found more frugal and sparing, as to Wine: the Altar of a Vestal Nun"

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Anselm ad Gratianum Imp. Augustinus gratianum adia pro Constantino. Panegyric.

Quod in quam terribile accipere, amabilem præstitit, &c.

Theodosius. Tunc primus videtur in domo fuisse Prefectus. Præf. ut Galenus. Vides Praefectum in Ammian. p. 382. Vides Notas in Panegyric. ad Gratianum.

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Nun was not more pure than his clofed Bedchamber; the Couch of no Pontifex more unpolluted; nor the Pillow of any *Flamen* more chaff.

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104. As to his Converſe with his Friends; he did not come caven, but prevent them in all Offices of kindneſs; and if it fo chanced that any of them firſt threw-ed him Reſpect, he bluſhed as much as a Private Man had reaſon, when prevented in Civility by an Emperor. His Conſortory he compares to ſome *Sacrarium* or Chapel; wherein none had ſate before him, who either more warily conſidered what he was to ſpeak, more prudently dilated on what he had conſidered, or more maturely diſpatched that whereon he had dilated. In the next place he tells him, He could diſcourſe of his Abilities in Rhetoric, but that there in he ſhould ſeem to gratifie himſelf. For in his Publick Speeches, *Sulpicius* himſelf was not more ſharpe; *Gracchus* the elder more commendably modeſt; nor did his Father himſelf carry more Authority with his Gravity: So ſteddily was his voice when he ſpoke more warmly; ſo exact in its Cadence when more remiſſly; and ſo temperately did he manage it in both caſes. Proceeding to declare the virtues of his Oratory in this manner, at length he turns his Speech to *Xenophon the Athenian*, and tells him, "That, if Nature would permit it, he could with he might return to life again; he who in declaring the virtues of *Cyrus* rather accommodated his Pen to his own Wiſhes, than the truth of an Hiſtory; ſetting forth not what indeed he was, but what in reality he ſhould have been. He tells him, that had he lived in theſe Days; in *Gratian* he might have perceived, what in *Cyrus* he did not find, but deſired; and he inſtantly ſays: It's the part of a man moſt perfect not to do things of which he may have cauſe to repent; as for *Gratian* he never did any ſuch things, and always pardoned them that did. It's an excellent thing to ſhew indulgence to thoſe that are in fear; but he by his Edicts, perpetually to be had in remembrance for their Clemency, had put all men beſides the very occaſion of fearing. It's Magnificent to beſtow Honours; but he had enriched the *Honorati*: It's Laudable for an Emperor to give eaſie Access, and not to pretend buſineſs; but he encouraged ſuch as were ſlow to make known their Requeſts, and when they had opened their griefs, would ask them if they had nothing yet more to ſay. That Speech of the Emperor *Titus* is very famous, that: he had loſt that Day wherein he had done no man good; but it became famous becauſe it was the Son of *Veſpaſian* that ſpoke it, whole overmuch Partimony, and ſuch Auſterity as was ſcarcely to be born, made the Lenity of his Son to be admired. Whereas *Gratian* the Son of *Valentinian* (whole Goodneſs was great, his Gentleneſs ever ready upon occaſion, and his ſeverity well tempered) in a well acquired and ſtily ordered State knew well enough that he might uſe the greateſt mildneſs imaginable, without any detriment unto Diſcipline. Neither did he (he tells him) do one ſingle good thing in one Day, but multiplied every moment ſuch favours as would laſt for Ages; and this he makes out by his remitting the Tributes which were remaining due to the Treſury. He demands what Emperor did ever more largely indulge his Provinces in this kind, more certainly provide for their ſecurity, or more prudently conſult for their Defence? *Trajan* indeed, in old time, did ſomething this way; but doing it by halves, that part which he remitted did not ſo much gratifie the concerned Perſons, as the remainder afflicted them which they were to pay. *Antoninus*, in like manner, was kind to the People; but he that ſucceeded him in his Authority, though not in his Goodneſs (*Commodus*) required after his Death what his Father had forgiven, according as he found each one was behind in the Rolls. But *Gratian* had cauſed all the Records of theſe publick Debts to be publickly burnt; thereby to cut off all occaſion of further vexing of his Subjects upon this Account. A joyful Sight it was in the *Forum* of every City, to ſee theſe Advantageous Fires which were made with the Piles of theſe Papers, wherein were reduced to Aſhes the Originals of antient Frauds, together with the materials of future Oppreſſions. Now he again triumphingly asks the queſtion, what could poſſibly be more Indulgent than his Scholar, or in Indulgence more adviſed? who took care that all the Benefits he beſtowed ſhould not be forfeited, and that the grievances he took away, might not come into a poſſibility of relapse.

Explained.

105. What he ſpeaks here concerning the remitting of Tributes in part by *Trajan*; if we conſider the Panegyricall Oration ſpoken to that Prince by *Pliny* the Younger, upon the ſame occaſion that this of *Antoninus* was uttered, we muſt interpret concerning the *Viginti* or twentieth part of Eſtates, which was firſt exacted

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exactd upon this occaſion. *Auguſtus* when he conſidered what vaſt expence the State muſt needs be at, by Reaſon of ſo many Legions, and Bodies of Horſe as neceſſarily were to be maintained; for defraying the Charge, required the twentieth part to be paid into the Treſury, of all Eſtates and Legacies that were left to Perſons that were not very poor, or nearly related in Blood. But much oppreſſion being hereby occaſioned, *Nero* firſt, as *Pliny* tells *Trajan*, abated ſomething the Rigour of the Exaction; but ſo, as it was rather to point at the Sore, and direct him to the Cure of it, than to heal the Diſtemper; which he effected ſo far as he intended, adding much to the Liberality of him that Adopted him. After him, it ſeems *Antoninus* alſo attempted ſomething in this kind, which proved ineffectual; and the greateſt Act of Grace and total Aboliſhing of the thing was referred for *Gratian* his Bounty and Muſtification. "And" this his Maſter farther tells him, did not only extend to the Provincials, but the Senate and the Army alſo. *Trajan*, it's true, viſited his ſick Friends, and for that his gentleneſs was to be commended; but he both viſited and healed them, found them Attendants, Viſuals and Phyſick at his own charge, comforting them when ſick, and rejoicing with them when recovered. If any Diſaſter had happened to the Army, he had ſeen him viſit the Tents of the wounded, asking them how they fared, handling their wounds, and ſeeing them Drefſed, or ſe Applications ſpeedily made to their ſeveral neceſſities. Some he had obſerved, who reſuſed Meat, to receive it at his Recommendation; others to Re-cover upon his Chearing and encouraging them. The Baggage of ſome he would cauſe to be carried by his own Mules; to others he would appoint particular Carriage-Beaſts; ſome ſupply with Servants, relieve the wants and cover the Nakedneſs of others; and this he did indefatigably, bountifully, with the greateſt Piety imaginable, and without the leaſt Offentation. In Concluſion, he provided all things for the Sick, and upbraided none when reſtored to Health.

His gratitude
to his School-
maſter.

106. Thus he Illuſtrates his Goodneſs, and the Effects thereof towards all his Subjects; but, as became him, with much more Care and Paſſion he deſcants upon his Kindneſs to himſelf, and the occaſion of his Diſcourſe. "He joynd him in the Conſulſhip, with a famous Perſon (*viz. Anicius Hermogenianus Olybrius*) and ſo joynd him, as to give him the Precedence, by preferring him in the Nomination. And this he did of his own Accord, when he never fought for it, never thought on it, nay, when there were many deſerving Men eſſe to be had, and no Merit could be pleaded on his part, except what was in the Opinion of the Emperor. But ſo it was, becauſe what he might aſcribe to his own Natural Parts, he attributed to the Induſtry of him his Maſter; for to this purpoſe in this manner he wrote to him. *I pay what I owe, and ſtill owe what I have paid.* If therefore, any demanded of him how he came to this Honour, his Answer was ready: *None but God, or he that is next to him, can give Account of any Man's ſelicity.* If ſtill ſuch an one inquired on Merit, he replied, he could pretend none at all; only he could ſay, that *The Emperour himſelf ſaid he ought it to him*; but this word was of a large acceptance, for he might mean thereby, either that this was the reward of the Inſtruction he received from him, or without that, he might find an Obligation merely from his own Liberality towards an agreeable Object, or elſe he had tacitely obliged himſelf to it, or had received ſome Command from his Father to be kind to him that brought him up; or elſe by this Magnanimity he reſolved to imitate the goodneſs of God himſelf. On the other ſide, *Auſpinus* thinks himſelf obliged, that he had taught him, becauſe He was the man pitched upon, when many other Perſons excellent for Learning were paſſed by; but ſo it happened, left He, who for this his Employment of Inſtructing him, had paſſed through all other Degrees of Honours by a ſtrange Celerity of his reiterated good Offices ſhould dye before ſuch time as the Scholar had Completed his Gratitude to the higheſt Degree his Maſter was capable to receive. But for all this it might ſtill be objected, that in former times there had been others that had taught the Emperours; and why ſhould He carry away the Honour of having been in, a manner, ſole Tutor to the Prince. As to this he replies modeſtly that he will not accuſe thoſe that were Colleagues in the time of *Conſtantine* (meaning his Sons) but he would a little reflect upon the manners of former times. *Seneca* indeed was rich; but not *Conſul* as He was, and ſome thought him rather to have Armed his Pupil for Cruelty, than inſtructed him againſt it. *Quintilian* alſo obtained *Conſular* Ornaments, by means and procurement of *Cle-*

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Cassini &
Ruyani in Pa-
neg. Plinii.

meis;

Sect. 3. *ment*, who was in great grace for a time with the Emperor *Domitian*; but "A.D. he rather thereby procured some addition of Honour to his Name, than any En- 3 8 3. signes of Authority, being it seems, not made Ordinary but Titular or Honorary *Consul*; for his Name is not to be found in the *Fasts* or Catalogue of *Consuls*. As for this *Clement*, by whose Intercession that learned *Spaniard* the Author of the Oratorian Institutions, got his Honour, there were two of that Name, *viz.* *M. Aricius Clement*, and *T. Flavius Clement* his Cousin German, who for some time could do much with *Domitian*, under whom *Quintilian* flourished; but having been also *Consuls*, he who was constant to nothing that was good, caused them both to be put to death.

107. In the next place he instanteth in *Titian*, who being also Tutor to "an Emperor, and an excellent Person, yet taught afterward a Municipal School "at *Vesuntio* (now *Besançon*) and died in Obscurity; which must have been *Julius Titianus* a Citizen of *Vesuntio*, and afterward Schoolmaster at *Lyons*, who "was Preceptor to *Maximinus* the younger; and by his Scholar, when *Cæsar*, and his Father the Emperor, was promoted to the *Consulship*; but both they continuing not long in power, he destitute of Support, betook himself to the School "of the *Municipians* of *Lyons*, wherein the Sons of all the Corporation were "Taught. "At length, he saith, he can only allow of *Fronto*, to be compared with him in his Employment and Rewards; which Person being a singular Orator was the Instructor of the two Emperours *Antonini*, *viz.* *Marcus* the Philosopher, and *Vernus* his Collegue. And yet had not he been honoured with the *Præfectship*, before he arrived at that of *Consul*; and for his *Consulship* it was but of those called *Suffecti*, who were substituted in the Room of the Dead "to make up the year, as *Fronto* was but for two Months remaining; so that he might very well have left Recorded, in the *Consulship* of whom it was, that he was *Consul*. If any now should upbraid him with his mean Deserts, and demand of him (if he durst Compare himself with so great an Orator as *Fronto* was, he saith, he would only reply in brief, that he did not compare himself with him; but yet would prefer *Gratian* before *Antoninus*, even that *Gratian*, who as to Power, was Emperor, as to Valour, was a Conquerour; for Sanctity was *Augustus*; for his Religion a Pontifex; a Father as to Indulgence; in Age a Son; and in Piety or Duty Both of them together. For when he was imbroiled in a most difficult War, at such time as he was menaced by many Thousands of Barbarians, wherewith the Tract of the *Danube* was confronted, even then, Armed as he was, and in the Field, he held the *Comitia*, for Creating him *Consul*; and wrote to him that most obliging Letter, which we have already related at that year, and upon every word whereof, the obliged Master now boastingly descants, reflecting the glory back upon the grateful Scholar. He exceedingly glories in that he was pleased to send him as a Mark of his Honour, that *Trabea*, (or *Palmata*) *viz.* the *Consular* Robe which was worn by the Emperor *Constantinus* himself, whom he calls his Parent, as being indeed the Father of his Wife. And he no less admires his Wisdom, in the Answer he gave to such as demanded of him to which of the *Consuls* he designed the first place, or Nomination; He told them there was no reason they should question who it was he intended to prefer, neither could any good generous Persons about him doubt of the matter. They that asked, hereat conceived hope, believing that that eminent Person, his Collegue, who was also at hand, must be the man.

108. Yet desiring to be put out of all pain and doubt, they made a second Demand, who should be the Man? At that he paused a little, and blushed with some disdain, that they should make a Doubt; and then replied, *Why do you ask who of the two designed Consuls should be first named? Who should have the first Nomination but he whom the Præfectship doth Capacitate for it?* He admires his wisdom, that by so sudden and discreet an Answer he should prevent that Envy which his Affection might have raised; and he applauds himself in that glory, whereby he was rendered no less than equal to *Cicero*. For *Cicero* gloried much herein, that the People of *Rome* had made him the First of the *Prætors* and the former of the *Consuls*; thereby hinting, that it was more glorious to be preferred before one, than many; for though it be no Disgrace to be a Second, yet it is great Renown when but two in the World can be thought fit, to be reckoned in the first place. It's reported of *Alexander* the great, that Reading those Verses in *Homer*, wherein, upon a Challenge made by *Hector*,

Sect. 3. out of nine Captains, one Champion was to be chosen, and thereupon the *Ar-* "A.D. my prayed to *Jupiter*, that when it came to the Lot, one of these three, *viz.* 3 8 3. *Ajax* the Son of *Teucer*, or else *Agamemnon*, might be the Man, he protested, that *He for his part, would have killed any that should have named him in the third place*. If this Courageous Prince would not amongst no fewer than nine Persons have been named in the third place, wherein he should have been preferred before the greater number, how would he have been troubled, if of two, he had been made the second in order? For when only two are designed, the Choice must needs be very difficult. As when two Persons are preferred, before all other Mortals to be made *Consuls*, he who hath the preeminence over the other, is preferred not only before one, but all mankind besides. So great was the Favour, and high was the Honour he acknowledges to have been conferred on him, which yet was more transcendent by the respect he shewed to him, in gracing him with his Presence at his first Promotion. For when he named him *Consul*, the Emperor was then at *Sirmium* in *Pannonia*, and *Ausonia* was in *Gall*, of which he had borne the *Præfectship*; and yet it seems he took so long a Journey to see him assume the Ensignes of his Authority, that therein he rather flew than rode, there being he saith no story of such speed told, no not in the Audacious Fables of the *Greeks*. He dares the Fable of *Pegasus*, despite the Stories of *Cyllarus* and *Ariou*. For the Horses of *Cæsar* and *Pollux* performed their Journey with the Change of their Riders, and some Reft. But *Gratian* flew over so many Limits of the Roman Empire, so many Rivers, so many Lakes, and the Bounds of so many ancient Kingdoms; from *Thrace*, through all the Tract of *Ilyricum* (how large I over) through *Venetia*, *Liguria*, *Old Gall* (as he terms *Gallia Cisalpina*) the insuperable places of *Retia*, the Borders of *Rhine*, the unpassable Coasts of the *Seine*, and the spacious Parts of the lower *Germany*, with greater expedition than he could write it, without any Repose so much as taking any moderate Sleep, or kind of Sustainance. And all this was to grace or put some Honour upon his *Gall*, that he might anticipate his new *Consul*; and make Fame, which was wont to be swifter than the wind, to appear slow, by his preventing it; so much did he allow to the old Age, and the Reputation of his Master; whose *Carule* Chaire, whole *Prætecta*, tinted by his Purple, whole *Trabea*, (rendred more Illustrious by the kindness of him that sent it, than conspicuous for the Gold it had in it) which he made his, by what he had done in *Ilyricum*, he had rendered much more Celebrious by what he had performed in *Gall*. But so he delighted to honour him, who could say that he was his *Questor*, next boast that he was his *Præfectus Prætorio*, after that, glory that he was his *Consul*, but above all (and which the Emperor prized above every thing) that he was his *Preceptor*, and as such piously had declared him, justly had preferred him before his Collegue, liberally had enriched him; and by his Imperial grace and favour, through all good Offices had fo consecrated him.

109. Now in way of Gratitude and Return for all his Kindnesses, he confessed, that though *Cicero* having arrived at the *Consulship*, denied that there was any other thing which he thirsted after; yet he professes, that though he was both *Consul*, and an old Man, yet he was still greedy after something else. You may well imagine what this was, *viz.* often to see him his Pupil, Cloathed with the Ensignes of that Magistracy, that he alone might equal the sixth *Consulship* of *Valerius Corvus*, the seventh, of *Caius Marius*, nay, the thirteenth of his Namesake *Augustus*, meaning *Octavianus* or him that first obtained that Surname. He tells him, that for his wonderful Charity and Goodness (formerly related) he had rendered himself more dear to all men than their own sakes; all his friends he had made obnoxious; and such as for ever would remain ready, devout and faithful to do him Service; being such friends, as his own Inducements had procured him, and not Fortune. And from this more just than well grounded Confidence, he turns his Speech to him that would be more Righteous than those he had obliged; even the Eternal-Maker of the World himself, who Chusest to inhabit, as he saith, in the Minds of those who have Cordially given up themselves to his Service, and therein makes Temples and Altars for his own Worship; acknowledging him to have so firmly planted the Love of him in the Emperours Heart, that Absence had not made him at all more Cool therein but he had remembered him though at a distance, had conferred Honour on him when Absent, and had preferred him before

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before those that were present and in his Sight. Such was the fence that *Aulonius* had of this favour, exprest in very Oratorical and Poetical words, which though not convenient, to be here rendered as they are in his Oration; yet we thought fit to give the Reader an Account thereof. Both for that Learned men think it fit, that Youth should be acquainted with his *Panegyrick*, and for that it acquaints us very much with the humour and Disposition of *Gratian*. For although the Phrase be very Poetical, and the Expressions hyperbolical, yet it represents to us in a Table, finely painted out and embellished, what *Ammianus* himself in a rough and coarse draught had done toward the Characterizing of this Prince, when he tells us, that *By his torwardly Inclination he gained much upon the People, being a Youth well disposed, Eloquent in Speech, and Soldier enough for his time*. As for those rough Lines he draws to make him have a Cast of *Commodus* as the eye towards something on one side; when upon better View, this Object appears but a Herd of Deer or Wild-Beasts; it rather directs us to a Forest or Land-skip, than any ill Features, glance or fainting of this Person, especially if an harmless Exercise, he behaved himself so gallantly, and demeaned himself with that Manliness and Dexterity, as the *Panegyrist* tells us. But first, if you will, let us take a View of him as he describes him on Foot, and then see how he performed his Exercises on Horseback.

110. Having after the performing of his Devotions brought him out of his Closet with a mind as well as Body altogether washed and pure, as he walks he thus points unto him. Whose Coming forth did ever portend better things? Whose Gate was more modest? Whose Behaviour more weighed? Whose familiar Conversation more Decent? Or whose Military Behaviour more to purpose, or as our Neighbours would say, more a *drut*? In exercising his Body, who ever ran more swiftly? Who Wrestled, or did any other sort of Activity more cleverly (as now we speak?) who ever Leaped higher or more nimbly? No man ever could throw any thing to a greater distance, no man cast his Darts more thick, or more certainly hit the Mark. We never, faith he, at the Poet (meaning *Virgil*) for terming the *Numidians*, *Infernos*, or those that need not to use any Bridle on their Horses, which were wont to be governed with a Rod alone; and at another Writer who talks of a Stroak of a Switch being a sufficient hint either to go or stay. All this was a Riddle to them that read it, till they beheld him when Mounted, bending his Bow, laying the Reins on the Horse his Neck, when he pleased, merely with a Switch putting him on, and with one Stroak of the same, giving a stop to his highest Career. They who pretended to teach him this, could not do it themselves; nay, they were now content to learn of him. Thus we see the Horsemanship and other Parts of a Cavalier described by him that was his Master in a more Noble Academy of the two, and we could wish that he had been as happy in his Predictions as in his Instructions and Observations; the only thing we lament in his *Panegyrick*, as not having such ground for it's Truth, is, that by his wonderful goodness he had rendered himself more dear to all men, than their own safety; that all his Friends he had made obnoxious, and such as for ever would remain ready, devout, and faithful at his Service. The Event did not prove it, however such was the Desire and Prayer of *Augustus*, who if he wished to him according to what he believed him to deserve, he was equitable, though not successful in his desires of the propriety of so excellent a Person, however it seemed not good to the All-wise Creator of the World (to whom he addressed himself) to give him his Portion and Reward in this Life. As herein he is to be commended, so excused, in his Poetical Flourishes, and possibly more Luxuriant Expressions than the nicety of simple and plain Truth would bear. For the Honour and profit he himself reaped from so grateful a Scholar could not give him near so much Satisfaction as the contentment and Joy he received in being delivered from a vexatious tormenting disappointment. When after a Melancholick Reflexion upon his former hopes conceived of doing Service to the Publick, from the Quality and Parts of the Youth; after many years spent, and much Labour lost, he should have been forced to quit the unpleasant Object with no more returnable a Sentiment than that of *Operam & oleum perdidit*.

A.D.

3 8 3.

Cujus autem
unquam epra-
jus auspiciis
fuit, aut in-
cessus modestior
&c.

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SECT. IV.

From the Murder of Gratian, to the Murder of Valentinian the Second, his Brother, and the last of the Family.
The Space of eight Years, and about ten Months.

1. **G** *Ratien* being dead, the fury and Rage of *Maximus*, the Tyrant died not with him; but extended to several of his Friends in *Gall*, amongst whom none more eminent than *Merobaudes* and *Ballio*. *Merobaudes* bore the Title of *Consul* this year; but after those Illustrious Offices he discharged, and his Confular Purple, was put to death; and the other, by *Pacatus* in his Panegyricall Oration to *Theodosius* (called *Valtio*) was driven to that Desperation, that for fear of Cruel Torments he killed himself, as *St. Ambrose* writes, who tells *Valentinian* what passed between himself and the Tyrant upon this occasion. For, when he went on an Embassy to him, being upbraided it seems, with the Death of *Gratian's* followers; the Tyrant answered, Whom have I caused to be slain? The Bishop answered, *Ballio*; and how excellent a Person? how great a Soldier? was that any Just Cause for his Banishment that he kept himself faithful to his Prince? To this he replied, I did not command him to be kill'd. But, saith the Bishop, we heard there was Order given for his Death. And the Usurper acknowledged, that if he had not offered violence to himself, he had ordered him to be conveyed to *Chaloniusse*, and there burnt alive. Whereupon, the Bishop ended that Discourse, telling him, that therefore it was believed, he was made away by his Command, complaining, that no Man could expect to be safe, if so great a Commander, so valiant a Soldier, and so deserving a Person could not be spared. And he writes that *Bauto*, who in the seventh year of *Theodosius* his Reign, was *Consul*, and before whom *St. Augustine* then read a Lecture for the place of Professor of Rhetoric at *Milan*, was also in Danger to have been sentenced to dye, as if he had been another *Ballio*. *Pacatus* saith he might have more specious pretence for his Cruelty against them, because both of them had served in the Army under *Gratian*, and that this Prince lov'd them both. Therefore it justly wondred, that *Prosper* in his *Chronicon*, should say, that *Gratian* was overthrown and slain through the Treachery of *Merobaudes* the *Magister Militum*; though by some, *Merobaudes* is thought to have been some other Person, and not *Merobauder* the *Consul* of the present year. Now if you will know how farther the Usurper behaved himself after his Success against his lawful Sovereign, and those of his Friends that could do him most prejudice, and disturb him in his unjust got Possessions, you may hear *Pacatus* how he bemoans to *Theodosius* his Country of *Gall* after this manner.

And whence shall I begin to make a Relation of thofe Michiefs, which this Tyrant *Maximie* brought upon the Western Provinces, but at the Calamities fuffained by thee my dear Country, which of all the Countries infected by this Plague, mayft try Challenge to thy felf, the Privilege of Miseries, being conftained, not only with thine Ears, (the Senfe of which is more obtufe) but with thine Eyes allo to behold his Victory, and the Deftitution of *Gratian*. It's true; 's next Neighbour the *Italian*, and the *Spaniard* allo, had great reason to feel the wound; yet both of them in their grief may receive fome Comfort, in that one of them faw nothing of the Tyranny it felf; and the other beheld the down-fall of the Tyrant. We firft of all fuffeined the Fury of that Savage-Beaft, we firft glutted his ravenous Appetite with the Blood of Innocents, and his Covetous; by our publick Defolation. His Cruelty, now fecure and at Eafe, had it's full fcope amongst us; and his Avarice as yet beggarly and more craving. In other places this publick Michief, either began or

Zz

Pacatus his
Description
of his Extra-
vagancies in
Gall.

- *Vide* Baron. ad
t hunc Annum
12. & Bald-
vini Notas in
Panegyric. Pa-
cati.

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ended, in *Gall* it reposed it self and continued. Who can compare himself to Misery with us; when we bore the burthen of the Tyranny both with others and alone by our selves? Why should I make mention of the Cities emptied of their best Inhabitants, the Deserts even filled with Noble Persons that fled their Countries; the Estates of those Persons set to Sale, who had once enjoyed the greatest Honours; their Persons proscribed, and their very Lives valued at a sum of money? In our days we have seen Dignities reduced, Men of Consular Degree stripped of their Robes; we have beheld old Men who outlived their Fortunes, and Infants securely and innocently playing under the Eye of those Officers who were selling their Patrimonies. Yet thus miserable though we were were we forbidden to demean our selves as miserable Persons; nay, on the contrary, forced to Act the part of happy Men, and only at home and in our own Houses having but permitted our Wives and Children to be Witnesses of our grief, we went abroad with a Vizarded Countenance not at all agreeing with our Fortune. For you might hear some Informer talk after this Rate? *Why looks he so Melancholick? Because, of a Rich Man he is become Poor? May he not be glad he lives? Why bath this other put on Black? I believe he mourns for his Brother, but he has yet a Son.* Therefore we durst not bewail those we lost, for fear of losing those that remained. But we put on Serene Countenances over heavy and Cloudy Minds, in like manner as they that taste of the Juice of some Herbs in *Sardinia*, are reported to dye Laughing. We mourned, and yet made our selves merry. It's some alleviation to Sorrow, when one may weep it out; and the Breast is eased with Sighing. And there can be no greater pain than to be miserable, but one must not seem so. There was no hope of satiating this publick Robber; for, Satirey which is natural in other Cases, was not produced in him by plenty and Abundance; his Hunger of Having daily increased, and what he had already, did but irritate his Appetite after more. As Drink kindles the Thirst of sick Persons; as Fire is not extinguish'd by dry Fuel, but it's Rage increased, so was his greedy and hungry Mind still whetted by the devouring of that Wealth which he heaped up by impoverishing all other Men.

3. He himself, in Purple as he was, stood by the weigh-Scales, and with a pale and gaying Face, observed every motion and Inclination of the Balance, not abating one single Grain. The spoils of Provinces, what was left by the Exiled, and the goods of such as were Murdered, were brought in on heaps. Here lay Gold pulld violently from off the Arms and Fingers of Matrons, there Necklaces torn from about the Necks of Orphans, and hard by might be seen Silver, ready for the Ballance all bedimmed with the Blood of the Owners. Every where was to be perceived telling of Money, carrying and lugging of Bags into the Treasury, laying heaps upon heaps, and the breaking and cracking of Tables and Vessels to be heard, so that any one who saw the Sight would have imagined the place to have been some Den and Receptacle of a Thief, and not the Habitation of an Emperour: But a Thief uses (or rather abuses) what he has got, and what he takes from others as it were restorers to himself; neither doth he observe and lye in wait to hoard up and bury Wealth, and at the same time to be wicked and wretched; but that he may gratify his Palate and his Belly, and not want supply for his lavish Expences: for he is careless, and profuse with the same easiness, both as to getting and spending. But that Pirate of ours, amassed up together in that *Charlydis* of his Den, whatever he had got from all Quarters, where it should be utterly lost, without doing us or himself any good. *Charlydis* do I call it? This Gulf is reported, though it swallow up whole and intire Vessels, yet to flight and reject Shipwracks, and cast them up upon the Opposite Shoars. But our Goods went in one certain and constant Road, to the Treasury, which common Whirlpit, not at all glurted with what it devoured, Vomited up nothing at all it had once swallowed down. It's the usual and last Excuse that Bad Princes make; that they take on purpose that they may give, and they deprecate the Injury of their Rapines and Oppressions by the greatness of their Bounty. But what think you of one who takes from all on purpose that none may have what he takes? The Covetousness also of private Persons, though ill in it self, yet hath this to say, that there was fear of Poverty, that one must lye up for old Age, and provide for Posterity; but what Cause doth He allege for his Covetousness, who hath at his Command what ever in any place is to be had? I for my part (if a

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Mortal Man may dare to make a Judgment of what is Coelestiall (he speaks to an Emperour) do believe that Princes have no greater felicity in this world than to make other persons as happy as they can, to relieve those that are oppressed by Poverty and want; to overcome Fortune, and confer a New Fate upon a Miserable Man. And therefore an Emperour who well considers the greatness of his Condition, should not call his own so much what he has taken away, as that which he hath given. For all things being in his Power, and as the Ocean, comprizing every thing within its own Circuit, what Waters it gives to several Parts of the Earth, from the Earth it receives them; so whatsoever out of Bounty is contributed from the Prince to his Subjects, returns again into the Prince's Coffers. So that a munificent Prince consults both his own Fame and his Advantage; for he both purchaseth Fame by what he doth, and he but lays out Money, which will again revert into his own Purse.

4. But what's to be said to one, to whom every thing praise-worthy seemeth foolish, who both, as every wicked Man doth, hateth all good Examples, and placing his chiefest felicity in a power of having and hurting, bent his endeavour not only how to get, but how to leave nothing remaining to those from whom he took it? For he did not practise what Princes are wont to do, in digging and improving of Mines, thereby to draw into publick Profit, what Nature had concealed within her own Womb; and find out a Treasure there, where none should be the poorer for its Discovery. He did not reckon that Gold of any value, which was digged out of the Veins of the Earth, or taken from the Gravel of Rivers; but esteemed that most pure and refined which was extorted from those who wept when they parted from it; which was wash'd with the Tears of Men, not with the water of Rivers; not digged out of the Cavities of the Earth, but torn from the Necks and Throats of such as were Slain. Therefore upon fear, full apprehension of the Pen (for proscription) as well as the Sword of the Tyrant, Poverty became a thing vowed, and, so that the Hangman might be avoided, the Officer of Consecrations was willingly submitted to. Then having related what we have said concerning the Death of *Merobander*, and *Ballio*, he adds, that besides this, he can speak of Blood drawn from the Female Sex, and of Cruelty against them whom Wars are wont to spare, however otherwise Cruelly Managed. And he instanteth, in a certain Matron which he put to Death for her Religion; and inveighs against the Cruelty and Bloodthirstiness of some Priests. Hereby probably he means some Woman he thus punished for the Heresy of *Priscillian*, as he did several others, being the first that ever inflicted Death for Religion, which Course (since that time too common amongst Christians) St. *Martin* the Bishop of *Tours* earnestly opposed; but it was urged and prosecuted by *Idacius* and *Libicius* two other Bishops, for which they were removed from Communion by the rest of their Brethren. But of this more largely in its proper place. We see how *Patavus* describes the Demeanour of *Maximus* toward his Country-men the *Galls*, but we must read him with some allowance to his Passion and Panegyricall strain, others (but possibly such as never smarted) allowing *Maximus* tolerable qualities, had he not obtained his Power by Rebellion and the Murder of his Sovereign. But to secure his Dominion however got, rather than believing himself sufficiently and safely settled therein, as *Zosimus* writes, he sent as Ambassador to *Theodosius*, the Prefect of his Bedchamber, no Eunuch (which sort of Men he could not endure) but a grave Man, and one of his most Antient Acquaintance. He asked no Pardon for what had been done against *Gratian*; but offered Peace, and to enter into a League and Society against any Enemies of the *Roman* Empire, or, if he was otherwise inclined, he denounced War. *Theodosius* seemed to be willing to admit him Emperour, and that his Status should be erected with his own, resolving with himself to make War upon him, when it should be convenient, and in the mean time to circumvent him with a Show of all manner of observance. Therefore when he sent away *Cygnius* the Prefect into *Aegypt*, with Order to prohibit the Worship of the Gods, and shut up the Temples, he also Commanded him to expose at *Alexandria* to publick view the Image of *Maximus*; and in an Oration to the People, to declare him his Confort in the Empire. This *Cygnius* performed, and withal, shut up all Access to the Temples through the *East*, all *Aegypt* and *Alexandria*; and prohibited the Sacrifices which in all Ages had been used, with the Worship belonging to the place. But what things from that time to this have hapned to the *Roman* Empire, shall particularly hereafter be related. Thus writes *Zosimus* the Pagan Writer, and great Back-Friend to *Theodosius* upon this account,

Allowance is to be made to his Panegyricall strain.

Maximus sends to offer a League to *Theodosius*.

Who seems to be willing to admit him to his Collage.

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This end there-
in.

whose Fallacies have been already laid open, and hereafter his Malice and blind Zeal may be more discovered.

5. The End and Design of *Theodosius* his pleasing the Tyrant, for the time, seems to have been his care for the preservation of *Valentinian*; and his fear, left proceeding in his fury, he should, after having brought *Brittain*, *Gall* and *Spain* under his Yoke, pass also the *Alpes*, and, with as much ease, destroy that young and helpless Prince. And in *Italy* they were all seized with a mighty conformation, expecting nothing but that the Tempest would speedily beat at their Door; and not knowing what course to take, at length *Ambrose* the Bishop of *Milau* was sent upon a desperate Employment, to see if by the repute of his Gravity and Sanctity he could work upon the ambitious humour of the man, and reason him out of his extravagant heat and thirst of Domineering over so many Mortals. And he seems to have wrought so far with him, that he gave some stop to his Career, and for this year we shall hear no further of him. As for *Valentinian*, he could not be but very solicitous, seeing his Neighbours House not only on fire, but burnt to the ground; and for that he seems at this time to have born no good will to some that were near about him, we are afraid he doubted something of their Integrity.

Valentinian
killed the
Power of two
of his great
Officers.

These were his two *Comites*, *Rei Private*, and *Largitionum*, from whom he took the Power of hearing Fiscal Causes in Appeals about this very time, when made from the under-Officers of the Revenue, called *Rationales*, and ordered them to lie in private Causes, to the Judges of the Provinces, who had this cognisance, viz. to *Proconsuls*, the *Comites* of *Dioceses* and the *Vicars*. If from these also Appeal should be fit to be made, he wills that the Parties concerned have recourse to the Prince himself, who is to be informed of the state of matters and the true merits of the Causes, by the *Comes Largitionum* and *Rei Private*, as they have relation to each of their Employments. This Law is directed to *Ammianus*, his *Comes Rei Private*; and about this time *Symmachus*, who shortly after was *Præfēt* of the City, in an Epistle to *Theodosius* the Emperor, makes mention of one *Ammianus* and one *Macedonius*, both who had deserved ill of the Commonwealth, and the hearing of whom had been referred to himself. *Ammianus*, died as he was brought by the Protectors towards *Rome*; and as for *Macedonius* he could not tell what was become of him, and he desires the Emperor that the delay may not be laid to his Charge, and that he would send him more particular Instructions for his trial. Now there is one *Macedonius* in the Code of *Theodosius*, to whom a Law is inscribed concerning Appeals, but two years before, by the Title of *Comes S. Largitionum*.

Theodosius in-
courage his
Judges.

6. *Theodosius*, after the death of *Gratian* continued all the remaining part of the year at *Constantinople*, where he made two or three Laws, of which it will not be amiss to take notice. He took care for maintaining the just Revenue due to his Judges, by declaring, that for Mults imposed merely for Contumacy, should lie no Appeal; for if a Magistrate cannot this way maintain his jurisdiction, his Power must needs be vain and precarious. But he found at this time in most sorts of persons a vast Ambition and desire of precedence, which transported many so far, that by one means or other they procured Letters or Codicils of the greatest Dignities, that they might leap over the Heads of deserving Persons, and such as with commendation had discharged Offices of a middle Nature. This caused great Animosities, and put all things out of due order and decorum; inasmuch that by a publick Constitution he thought himself obliged to take notice of it, and provide for a redress of a matter of ill consequence.

Refrains the
Ambition of
those that
aspired after
Honours.

He delivers therein his sense of it as a thing, than which nothing could be more injurious, and against preserving Degrees of Dignities; for how could Merit be rewarded where, without any consideration of services performed, men intruded into places of Honour, whereby best deserving persons were deprived of their due, and those of inferior Merit obtained what belonged not unto them. After this Preface he declares what course he will have observed, as to Honorary Codicils, that such as have been preferred by them, or by the meer favour of the Prince, shall come below them that have been advanced for their services, or have obtained Codicils also by the prerogative of their Merits. He prescribes a Rule also to be observed in the bestowing of Codicils; that such as had discharged Offices, should not only be preferred before such as had merely titular; but amongst those that obtained Meer titular Codicils also a respect should be had to them that were of most desert. So far he prefers merit before the Letters, that to those that obtain them he assigns Place and degree inferior to what otherwise the Title of

A. D.
383.L. 41. de
appellat. c.
Cod. Th. vide
con.L. 10. de
ep.L. 32. de
ep. tit.L. 2. de
appell. no
Re. Th.
Cod. Th.
A. D. c.
Jud.L. 1. de
Nep. Ordo
Jurat. Cod.
Th. lib. 6. tit.
5. de
A. D. c.
Jud.L. 2. de
Honor.
Codicil.
L. 1. de
Th.

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This end there-
in.

the Dignity was wont to obtain. So that in case a *Vicar* of a *Præfēt*, after the Office of *Vicar* discharged, obtained honorary Letters of a *Præfēt*, he should not only not have place amongst the *Præfēts* themselves, but take his place amongst *Proconsuls*, or those of the next Degree or Rank, as it should fall to him; but so as to proceed such as were of this Rank merely by Codicils. In like manner if an ordinary Judge or Governour of a Province (viz. a *Consularis* or *Præfēt*) should procure Letters for the place of a *Præfēt* or *Proconsularis*, such an one should come behind a *Vicar*, one who had really discharged the Office; and if a *Præfēt* procured these Codicils, if a *Consularis* also procured the like, he should be preferred. This was new Law and unknown to former Princes, except what *Valentinian* the Elder did ordain in a special Case. But so extraordinary was the Ambition of this Age, that it required a remedy suitable to the Distemper.

7. Nay farther than this, he ordains that no Person shall obtain Honorary Codicils of any Dignity, but the very next preceeding the place he bears, and thereby absolutely Prohibits all promotions *per saltum*, by virtue of any such unreasonable Letters; as preferences in Military Employments were prohibited to be made. The punishment he inflicts upon such as violate this Law, is double; for he wills both that they be deprived of the Honours obtained contrary to the meaning of it, and moreover be fined in no less a sum than twenty pounds of Gold. This is further from this Law to be observed, that the Rank of Dignities at this time was thus Constituted, viz. *Præfēts*, *Proconsuls*, *Vicars*, *Consulares*, and then *Præfēts*; for *Proconsuls* had the second place. And we may also take notice that by Ordinary Powers it means Governors of Provinces; and these two, namely *Corrēctores* and *Præfēts* were distinguished not only from the *Illustres*, as the *Præfēts* *Pretorios*; but those that had no more than the Title of *Speculabiles*, as the *Proconsuls* and *Vicars*, being also by other Laws distinguished from them that were termed the *Greater Powers*; although when *Ammianus* the Historian writes of *Ordinary Judges* and *Ordinary Powers*, he means such Magistrates as they were, contradistinct to the Military. But such was the Ambition of this Age which caused *Theodosius* to be so peremptory and effectual in the cure of the Distemper, a Disease which for prevailed, that in the Senate House also it infected those that were richer than their Neighbours, inasmuch that they would speak their Opinions first, contrary to the ancient custom which gave priority of Speech according to Offices and Employments, and not according to the greatness of Estates. The old custom *Theodosius* ordered the Senate to recall, and *Symmachus* gave him thanks for so doing, as also for the power he gave them to lessen the charge of Games, which the *Prætors* were wont to be at. And he desires him by his Decree to confirm what the Fathers by his order had resolved on as to these or other matters, and give them force by a penalty inflicted upon Transgressors. By these Reforms he faith, they believed virtue was again returned to its Dominion and Sway that it had in old time. And indeed the way to have Virtue return, was to fight away Vice by the severity of Laws; which this Emperor yet further attempted now at the closing of the year. This was by publishing an Edict against Calumniators or false Accusers, requiring that such should be punished as Law required after their conviction, or clearing of the Party accused, without being admitted to any new Accusation upon pretence of having known other matter, or having found out new proofs, which these men often pretended, thereby to evade the Censure they were for their Malice and Fallacies to undergo. This Edict is directed to one *Hellebicus* as *Comes* and *Magister* of both sorts of the Militia; or both of Horse and Foot.

He restrains
false Accusers.

8. The year next ensuing or the CCCLXXXIV of our Lord, the twelfth Indiction, and the ninth of *Valentinian* the Second, had for Consuls *Fl. Ricimeres* and *Fl. Clearchus*. *Cyngius* for this and five years following was *Præfēt* *Præfēt* *Pretorio* of the East. *Prætextatus* was *Præfēt* of *Italy*, and so was *Probus*, as appears from other testimonies besides the Laws, who seems to have succeeded upon the death of the other. For much what about this time it was that *Symmachus* was *Præfēt* of *Rome*, by an Epistle signified the death of *Vettius Prætextatus* to *Valentinian* the Emperor. "He tells him that though he supposed Fame, than which nothing is swifter, would prevent his Narration, yet he cannot be silent, but compelled thereto by the Necessity of his publick Office, must acquaint him with the departure of this *Illustrious* Person, to the great regret of his Country, of which he was a singular Ornament. Whole commendations however

Prætextatus
the Præfēt
of Italy dies.

just

A. D.
384.L. 1. de
appellat. c.
Cod. Th. vide
con.L. 10. de
ep.L. 32. de
ep. tit.L. 2. de
appell. no
Re. Th.
Cod. Th.
A. D. c.
Jud.L. 1. de
Nep. Ordo
Jurat. Cod.
Th. lib. 6. tit.
5. de
A. D. c.
Jud.L. 2. de
Honor.
Codicil.
L. 1. de
Th.

Sect. 4.

See the Pref. of the City, de-
scribes the
Expectations that
Senators may
be excited to
the Memory.

just he should in this conformation of mind pass over, there being no need to enlarge in his praise, seeing the Emperor himself could well attest the glory of his life, and his death was rendered famous by the grief of all men. In another Epistle directed to the other Emperors, *Theodosius* and *Arcadius*, he writes, that though *Vettius Pretextatus* was by the Law of Nature dissolved, yet still he lived in the memory and love of all men, and in this thing punished Envy itself that even Death so much contributed to his glory, that herein also the ought to grieve him his good fortune. For besides the grief of the whole Roman people conceived for the loss of him, the Senate also being impatient upon the same account, desires, faith he, some comfort from that Honour which is due to virtue; and beseeches you that a man to be wondered at in our Age, may by the Durability of Statues be delivered over to the Eyes of posterity; not that he covets any earthly Rewards, who when he was living trampled upon corporal pleasures as contemptible things; but because Imitation is incited by honour given to good men; and emulous virtue receives strength from the pattern of Respect that's given to another Person. Hence came it to pass that even in less polished, or in rustic ages (as he terms them) the best Commonwealths-men were by Hand and Art committed to memory. And I wish that in after-times the facility of some Flatterers had not derogated from this decent custom; although neither are such things to be esteemed equal, which by unsuitable ways are procured.

9. It's very fitting therefore that he who remains in the Breasts of all men, should also stand in the Eyes of most: He who was always greater than the Offices of Magistracy which he bore, was moderate towards other Persons, but severe towards himself, easy without contempt, and of reverend Demeanour without terror. To whom if any profit came by succession, it reverted to the kindred of the Testator. He whom Prosperity could not alter, never rejoiced in the Adversity of other men, and knew not how to be indecently liberal: He whom Honour always found unwilling though it courted him, to whose Justice and Equity every of his Neighbours would willingly trust the measuring and limiting out their adjacent Grounds. He adds that he would say more, and ought more to say, but that all things are to be referred to them to whom he writes; whom he beseeches, that as Patrons of Honesty and Goodness, they would let forth what goodness was in their times to be seen to such as should come after. For this was that *Pretextatus*, whom justly they had made *Consul*, that the Register at left might transmit his famous Name. He prays them that they would by repeating fatal losses, do good to those that were left behind. Though the man departed with a Reward, yet he intreats that their judgement of him might still continue; that they would make it appear, that Accidents can do no prejudice to glory: for what he merited from his Country was altogether singular; but what he had now lost was common to many, or indeed to all. In this manner, cloth the *Prefect* bewail the death of his Friend; which though it be a little tedious here to insert, yet the Reader may hereby take notice of this Custom of erecting Statues by order of the Emperors to Deserving Persons, as it was done to this *Pretextatus*; as also that the Senate sometimes requested it, and that by the mouth or Pen of the *Prefect*. But whereas he tells the Emperors that they had made him *Consul*, that the *Faisti* or Registers might transmit his Name to Posterity; it ought to be known that he was only designed *Consul*, and died before he came to receive the Emblems of that Honour. But this is that *Vettius Agorius Pretextatus*, as an old Inscription in a Stone calls him, of whom, being *Prefect* of the City, we have heard formerly from *Ammianus Marcellinus*, who gives him great commendations, and mentions his being made *Proconsul* of *Achaia* by *Julian*; in which Dignity he continued the first years of *Valentinian*, as *Zosimus* writes, who also gives him a great Character.

10. *Theodosius* this year made his abode at *Constantinople* till the Month of *June*, about which time Ambassadors came to him out of *Persia*, and desired Peace. Either upon this occasion, and by way of congratulation, or some other, was the usual Gold paid into the Treasury, which they called *Aurum Coronarium*, which left it should fall upon those that were not concerned to pay it, by an Edict directed to *Cyngenes*, and dated on the eighteenth of *January*, he commands "That none shall be compelled to pay it unless Custom could be alleged for it. But though he was careful and indulgent to those Persons that they might retain what Immunity they had enjoyed; yet having set himself at this

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Ep. 25.

Vide Prologo-
gramm. Cod.
Theod. de Mi-
nistris in
Symm. Ep.

Chron. 1511.
Cod. Th.

L. 5. de Auro
Coron. Cod. Th.
de L. 1. de Cod.
Theod. de Mi-
nistris.

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Theodosius
beautifies Con-
stantinople.

The Testimo-
ny of Themistius
in the Philoso-
pher thereon.

this time to the beautifying of *Constantinople* by several new Works, he ordains in the same Constitution "That no Person whatsoever by his Dignity be privileged from contributing to the Haven, and Aqueduct which now were making or repairing. Therefore much less could the Judges privilege any Person; but this holds only in such Sodain, Extraordinary and Noble cases as this; for otherwise Persons were free from such Contributions, and so were also the *Veterans* or *Emerite* Souldiers. But at this time *Theodosius* began to make a Port at *Constantinople* (which at this day when *Turks* and others ordinarily speak of that place they call by this very Name) which was called *Portus Theodosianus*; as also an Aqueduct which had the Name of *Valentinianus*; but to this afterward he added another, which bore, as did the Port or Haven, his own Name. Of this his enlarging *Constantinople*, *Themistius* the Philosopher makes ample mention in an Oration he made this year in Commendation of this Emperor. "For, having extolled him as the most happy and wealthy Prince that had been, for maintaining so great an Army as never had been on foot, since the *Romans* had their power; especially in the Country about *Tigris* (which gives us some hint of the Advantage he had at this time against the *Persians*, and his compelling them to a Peace) he intrencheth also in the support of this vast City, and the great multitude contained in it: He adds, that he not only nourished them, but repayed what was detained by the Fraud and Iniquity of former times; for he increased the Provisions and the Gifts formerly bestowed; whereas before they thought themselves well dealt with if nothing was taken from them, of what they formerly had posited; so that there was no need they should cause all Stangers to depart the City (as sometimes it hapned in *Rome* and other places) for want of Necessaries.

11. On the contrary, still greater numbers flocked thither, and lived in abundance of all good things. The Emperors Magnificence in the Buildings he would have his Auditors consider, in that the City from a rude and imperfect thing was become so pleasant and beautiful as could not be expressed; no Corn being now sown within the *Pomerium*, neither any void spaces left, but all being filled with delightful Objects, it represented as it were a Garment interwoven to the very Borders with Gold and Purple; for such a show did the Palace called by the Emperors Name, the Baths, the *Porticus*, and the *Gymnasia* (or places for Exercise) make, and so largely extended it, that what seemed formerly the Edge and Hem, now appeared in the middle. Neither while the publick Works were carried on, were the private Buildings neglected; but the whole City grew and increased like to some Animal, through the contrivance of the Emperor and the assistance of the Magistrate, who so far excited the Inhabitants, that they built their own Houses very stately and capacious, of which they lined the Walls, and paved the Floors with *Laconick*, *Lybian* and *Egyptian* Marble; and convinced *Menelaus* of much folly, who is said to have covered his Walls with Brass and Silver. But in the Suburbs also the Staircases and Magnificence of the City, faith he, is remarkably eminent; the Sea therein now brought within the Land, and an Haven lately made, afford a noble prospect of Ships. The Town abounds with Artificers and curious Workmen of all sorts, and looks like a very shop of Magnificence. And indeed if the Affection and Design of the Emperor proceed in this way, there will be the next year need of a Plot for another City. And it will henceforth remain doubtful whether of the two Cities be greater or more illustrious; that which *Theodosius* adds to *Constantinople*, or that which *Constantine* adjoined to *Byzantium*. Thus much *Themistius* concerning the great zeal *Theodosius* had for the enlarging and beautifying of this City; a City of which as *Constantine* was the Parent, *Constantinus*, *Julian* and *Valens* were very tender in its Infancy; and now in its fuller Age was it as much indulged by *Theodosius*, his Son *Arcadius* and *Theodosius* his Grandson; so that as we said upon its Nativity, it was founded under a very lucky Planet.

12. But as *Theodosius* had opportunity to shew his Magnificence; so also his Clemency and Fatherly affection to the Provinces at this time. For in the *East*, and particularly in *Syria*, was there great want of Corn for three years together, under so many *Comites* of the *East*, viz. *Philagrius*, *Procletus* and *Icarinus*. The People also complained, that what Tribute was due in Species they were forced to change for Money, at a greater Rate than the things would bear, to their great loss and inconvenience. To redress this grievance and give all the ease he could to the Provincials, he published a Constitution, now divided into three several Laws, in one of which he commands "That the Tributes of Corn and Provisions

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L. 12. de Op-
eribus publicis
Cod. Th. de L.
7. Cod. Theod.
de Mi-
nistris.

Orai. 6. p. 101.
Cod.

L. 4. Tributa
in ipsis speci-
bus inferri.
Cod. Th. de Mi-
nistris.

be

Sect. 4.

be paid in Specie. And whereas, in case of necessity, when Corn and Provisions were wanting, for the publick Service, or to supply the Poor in time of Famine, the Officers were wont to buy where they saw convenient, and often constrained the People, to part with what they could ill spare, or at unreasonable Rates; by another Branch of this Constitution he commands "That no man be forced to sell his Goods, but that the Sale be voluntary and free. That ready money be paid down for what was so bought, by the care and ordination of the *Præfectus Pretorio*, and that, at the ordinary Market-price; and in the last place, "that the Plebeian or lower sort of People shall not be constrained to sell their Provisions, which should only be purchased from the wealthier Possessors of Lands. So would he provide against the common Calamity in behalf of the Poor, so as not to force one poor man to relieve another, but to lay this burthen on the richer sort; though *Anastasius*, one of his Successors, thought this too gentle; and in such cases would have no man excused from this *Coemption* (as it's called) whose Law also *Justinian* preferred, and for this reason would not infer this, nor another made by *Constantine* upon this subject, into his Code. But such was the tender care of *Theodosius*, to prevent oppressions, to which he might be excited the more, by some clamours made at this time. For, little better is a Relation made by *Libanius*, the Sophist, in an Epistle to *Modestus* the *Comes* of the East; to whom he complains, that one *Dulcitius* who was owner but of a small parcel of ground about *Beroea*, betwixt *Antioch* and *Hierapolis*, was compelled to sell a great quantity of Wheat by the Officers appointed to look to these matters, who oppressed, and favoured whom they pleased: and against them he craves his Justice and Assistance. Further, because in the payment of Tributes a more peculiar respect was had to that of Gold, that the *Succptores*, or Receivers of it, might not imbezle it; nor the miserable Provincials be oppressed by their frauds, he will have it be paid in the presence of the *Defensores* of the Cities, who, as we said, were ordained for the care of the People, to protect them from injuries, and were to be present for this end, at the publick transactions. And for the ascertaining of the payments, he confirms what he had formerly ordained in another Law concerning the form of Acquittances given by these *Succptores*. This Constitution was published at *Berytus*, a City flourishing exceedingly in this Age in the profession of the liberal Arts, and especially the Civil Laws. Here also the *Comes* of the East and the *Consularis* of *Phœnicia* (at least sometimes) had their residence. Moreover multitudes of Merchants flocked hither, for the Trade of Purple Cloaths here died, and for other sorts of Traffick; besides, it was frequented by *Gladiators*, and the *Curfus Publicus* was directed to it. Being in this Degree of Eminency, it eclipsed the ancient glory of *Tyre*, the Metropolis of *Phœnicia*, and here usually were the Edicts, relating to it, propogated to view; yet with respect to that ancient City which had been advanced to the Honour of Metropolis by *Adrian* (who divided the Province of *Phœnicia* from *Syria*) it being a Colony that had *Jus Italianum*, at the intercession of one *Paul*, an Orator and Inhabitant of it. For it was the custom, that if in any Province, there were a City of greater Resort than the Metropolis it self, the Laws were there published, yet so as to preserve the esteem of the Mother City, they were first directed thither. But at last there was no need of this labour, when *Berytus* it self became a Metropolis by the Indulgence of *Theodosius* the Younger.

He restrains the Abuse of the Curfus Publicus.

13. We have formerly observed, though not with those Reflections which the Malice of *Zosimus* suggested, that *Theodosius* was very Indulgent to the *Magistri Militum*. Thereupon, as it seems, rather than from any privilege they had by Law, they presumed to grant Licence for Use of the *Curfus Publicus*, or made Use of it themselves without any lawful Authority. This Boldness of theirs by a Law he checks, and forbids the practice, declaring "That none ought to have the liberty of the *Curfus*, but those to whom it was granted in former times; and therefore they who formerly wanted it, will, for the time to come, more patiently endure the loss of it; and he courts them to it, by telling them, that he takes them to be lovers of the Commonwealth, and in matters respecting the Common Utility, that he expects they will behave themselves according to the Laws and Customs of the Empire. Thus just was *Theodosius* to the Laws and Customs, and yet indulgent enough to his *Magistri Militum*, whom he courts as well as commands, and whereas he expects they should live according, as he expresseth it, to our Customs, thereby he supposeth them Strangers, and such indeed were the *Magistri Militum* at this time, their very names pronouncing them Barbarous; as *Romeri*,

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L. 2. de publicis comparationibus. Cod. Th. lib. 11. tit. 15. vide Com.

L. 19. de Annot. de Tribu. tit. Cod. Th. lib. 1. tit. 15. vide Com.

De Berytus vide Com. Grotius ad h. l. L. 2. de Tribu. tit. Cod. Th. lib. 1. tit. 15. vide Com.

L. 43. de Curfus publicis. Cod. Th. lib. 1. tit. 15. vide Com.

Sect. 4.

Chomeri, *Arbogastes*, *Stilicho*, *Bauto*, *Hellebicus* and others. But that we may joyn together what hapned this year about the same Subject; provoked, we must guess, by the great miscarriages of this *Curfus*, which was intended for the publick service; by another Edict he declares "that no private persons shall have the liberty of making Use of it, however the Licence be obtained, except they be such as have exercised the Office of *Præfectus Pretorio*, or been *Magistri Militum*; not by Codicils having arrived to such Degrees, but having really discharged the Employments in their own Persons. But neither should these make bold with the privilege always as they desired; but having once had the benefit of it, and thereby reached their Homes, or Places which they designed to come to, they should thenceforth serve themselves of it no more; except they obtained a Licence from the Emperor himself for so doing. Being ever and anon casting his Eye upon the Carriage of the Magistrates; to prevent the oppressions of the People, he ordained, that a Judge might admit even of a superfluous Appeal, and such as had no warrant from Law, if he saw occasion to transmit the matter to some other Court; and whereas of old time Caution was wont to be given to pay too much money in way of Mult, or deposit it in Court, in case the Appeal were rejected; but Princes had taken this away and provided what Penalties in particular should be imposed upon idle and frivolous Appellants, he now forbids any other Mults to be imposed in such cases, but what had been decreed by him or his Predecessors.

Grants great liberty of Appeal.

Restrains the straggling of Soldiers.

Indulgent Corporations.

12. The Law whereby this is enjoined is directed to *Merobaudes*, a *Frank*, and *Dux* of *Egypt*, who being as well a Stranger as a Souldier, might be less instructed, and more apt to be Excentrical in his Judicature than other Military Judges that were originally Subjects of the Empire. "But one disorder he found in Souldiers at this time, which he would not have punished by any of these their Great Officers, but reported and referred to his own Person, and that was their straggling from the Mansions where they were Quartered, and from their Colours, whether Tribunes or inferior Souldiers. He expressly commands that no leave be given them, for their wandering through the Countries, to prevent that Rapine and Violence they were wont to commit upon the Provincials; and if any should transgress this so necessary Order, he requires that thereof Report be made to himself, both of the Souldier and his Tribune, by the Governor of the Province, or the *Defensores* of the Cities, who being appointed for defence and ease of the People, he requires many things of them in order thereto about this very time. And for the Cities and places Corporate, he shewed himself further careful, and particularly for those of *Aedessa* in the Province of *Ostroëna*, where there was such scarcity of *Curiales*, that by an Edict directed to *Cynegius*, *Præfectus Pretorio* of the East, he confirmed a Law formerly made by *Valens*, whereby, if a *Principal* or *Principularis* belonging to the *Præfident* of that Province, had a Son, he should be added to the Court of that City; or if he had two, the one should go to the Court, and the other remain in his Fathers Relation to the *Præfidents* Office. Nay such he will have drawn back to the Service of the Corporation as were born before their Fathers came to be *Principulares*; for they were indeed accounted such though born before; in like manner as the Sons of Senators were received to the Honour of such, though born before the Dignity of their Fathers. Further, being removed from *Constantinople* to *Heraclia* in *Thrace*, at the beginning of *June*, (Whence he again returned in *September*) by another Law inscribed in *July* to the same *Cynegius*, he declared "that even such Persons as had served in the Government of Provinces, if belonging to these Courts, should be forced back to such Services thereof as they had not discharged, agreeable with what he had before determined in two other Constitutions; it being his general resolution, that Persons, through Dignity, should be recalled to these Employments. Though this, to some of his Successors sometimes seemed fit, yet several of his Predecessors were of other Opinions. But hence we see that they varied therein as occasion served, and the times would bear, and that the want of these *Curiales* grew greater every day, when such as had been Governors of Provinces must again be forced back to such charges; or in Conclusion, that the Governments of Provinces grew to be of less Esteem, which formerly were wont to afford protection to those that had discharged them.

14. However, Luxury and vast Expence for Ostentation, was as great at this time as ever, which drove some Persons in Place to that Excess, that they would give such Gifts and bestow such Largeſſes upon their Friends, or the Players, as the

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L. 42. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 43. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 44. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 45. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 46. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 47. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 48. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 49. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com. L. 50. de Appellat. Cod. Th. lib. 1. tit. 15. vide Com.

L. 12. de Re Militari. Cod. Th. lib. 1. tit. 15. vide Com. L. 13. de Re Militari. Cod. Th. lib. 1. tit. 15. vide Com. L. 14. de Re Militari. Cod. Th. lib. 1. tit. 15. vide Com. L. 15. de Re Militari. Cod. Th. lib. 1. tit. 15. vide Com.

L. 105. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 106. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 107. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 108. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 109. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 110. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com.

L. 105. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 106. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 107. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 108. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 109. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com. L. 110. de Curiales. Cod. Th. lib. 1. tit. 15. vide Com.

Sect. 4. the Purfes of Princes were only full enough to bear. This compelled *Theodosius* to publish a Constitution for regulating this Abuse; both that some Difference might be put between the Largesses of Private Persons and the Emperors themselves upon such occasions; and that amongst private men there might be some Distinction of Dignity; and they might also be restrained from this immoderate effusion of their wealth, which often extended as far as the waisting of their Patrimonies, and the spending of their Estates, that they might exceed one another in this sort of Vain-glory. The Senate it self being principally concerned had taken notice of this mischief, as tending to the Destruction of its own Order; and thereupon had framed a *Senatusconsultum*, as well against the immoderate expence in fitting out the usual Games and Pastimes, as other matters, by the recommendation of *Theodosius* himself, as *Symmachus* tells him, who thereupon prayed in the Name of the Fathers a confirmation of that which they had resolved. In answer to his Epistle and to several particulars of it, this Emperor sent his Oration or Edict directed to the Senate, wherein he premitteth "That although a *Senatusconsultum* doth obtain perpetual strength and establishment of it self, yet they (the Emperors) thereto are wont to give a corroboration; that is, to such Decrees of the Senate as respected it self, its own Orders and Regulation; for as for other *Senatusconsultums* made for declaring or enacting some points of Law (as *Tertullianum*, *Velleianum* and the like) there were no such now made, nor had been for many Ages; the Prince having swallowed up all such Legislative Authority. But therefore he ordains, that, "If any particular Persons should by way of petition endeavour to procure a Rescript for excusing himself from what was generally concluded and established, he should forfeit the third part of his Estate, and be rendered infamous, as a person convict of Ambitious Purposes. Now for the Retrenchment of the Charges of such as presented the Games; amongst other Excesses upon Stage-players and other Persons they were wont to be profuse towards them in Cloaths, which sometimes were silken, either all; or in part, woven with other materials. "But whereas the Emperors themselves were wont in their own Largesses to bestow such as were all of Silk, he forbids the Setters forth of the Plays to do it.

Checks Luxury and too great Expence.

Particularly in the wearing of Silks.

15. Of all the Emperors and Romans, *Helioababalus* was the first that wore any Garment that was all of Silk; when as before that time Cloaths that were mingled of that and Linnen were only in use. But he both wore them, and gave to his drunken Companions those of the later sort; which course his worthy Successor, *Alexander Severus* altogether rejecting with his other Extravagancies, neither wore any of Silk himself, nor gave any that had Silk in them to any Person: nay *Aurelian* never wore any of the former sort, neither made any Present of the later; and when his Wife desired the might have but one Mantle of purple Silk, he told her it was a shame that Yarn and Gold should be of the same value; for then a pound of each was sold at the same rate. Yet for all this, Private Persons were sometimes so arrogant as to wear whole silk; for else *Tacitus* the Emperor had not forbidden the practice, and notwithstanding his Command to the contrary, they would still be bold; yet so as they did not give such Cloaths to Players; but those only in which Silk was mingled, in the time of *Constantinus*, which also was much complained of. However, after his time they took up the practice, and so much Silk came to be prized, that none could think themselves Fine or Gay enough without it, though it was not the growth or product of the Roman Empire; but was brought out of *Persia* or those Eastern Countries; for (to give some stop also to this Extravagancy,) *Gratian* not long before the Law we are speaking of, by his Edict directed to *Liberianus*, the *Dux* of *Mesopotamia*, forbade that any Person should procure any Silk from the Barbarians, but only the Comes of Traffick or Commerce. "But now *Theodosius* expressly forbids the caressing of Players with such Cloaths, and by the same Constitution thinks fit to give a check to the Custom for Magistrates their making excessive Presents to their Friends at the entering of their Offices. For at such times, their Acquaintance and Persons of Quality, were wont to flock to them to grace them with their presence, or to see the Shows, and then they must be presented with something whereby to remember them, nay such as were in great Esteem with them, though absent, were wont to receive this mark of their kindness. These were either Pieces of money (or Medals;) or else Diptycha or Tables to write on, consisting of two Leaves apiece. The Large made by money was called *Spartula* (from the Baskets in which they were carried) both given upon these Promotions, at Wood-

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L. Vn. de Senatusconsultis: Cod. Jul. lib. 1. tit. 16.

L. 1. de Expositis liberum. Cod. Th. lib. 1. tit. 9. de Jul. a. Cod. Jul.

L. 2. Quere sine me ius. Int. etc. Cod. Jul. lib. 4. tit. 40.

Sect. 4. dings also, and upon other occasions: and as well at Entrings into Offices, as at the Marriages of Noble Persons, they were now wont to be made of Gold. "But *Theodosius* prohibits any Setters forth of Games to make them in Gold, except the ordinary *Consuls*, who did it in one piece called an *Aureus*, as *Symmachus* tells his Friend, to whom he sent one in his Consulship. All others were to make them in Silver, and not put so much as they pleased into every piece, but to form them so, as out of one pound of Silver might be made sixty in number, and no heavier; but as many more as they pleased. And as for the *Diptycha*, he will have them, which the *Consuls* presented only, made of Ivory, whereas they were wont to be made of other Materials. Thus careful was he for restraining of Luxury; but his Law, however strengthened both by a Penalty and Infamy, was broken not long after.

Takes care for the Senate of Constantinople.

Hisrius born.

And again for Corporations.

16. As careful he was for filling up and keeping in credit the Senate of Constantinople; to which end, whereas Immunity from the *Glebalis Collatio*, or ordinary Tax upon Senators, was wont to be granted to some certain Persons, and had for this purpose been extended to such Roman Senators as lived in *Thrace*; he now communicate it to such as lived in the Diocess of *Macedonia*, and would be made Members of that Body. About this time, or the ninth Day of September, he had a Son born to him by *Flaccilla* his Wife, to whom he gave the Name of *Honorius*. And he still continued his Indulgence to Corporations, by ordaining "That if the Estate of any *Curialis* came freely by way of Legacy, Trust, or free Gift to any Person that was not of that Condition, such Person should be yearly bound to pay a certain sum of Money (as the twelfth part of a *Solidus*) according to the proportion of the Patrimony which he received. And whereas the Governors of Provinces were now adays wont to punish their Officials for their misdemeanors, by condemning them to the Services of the *Curie*, he forbids this as a thing indecent, and below the Eminency of these Bodies. Indeed if any *Decurio* had forsaken his Station, and sheltered himself amongst the Officials, they might find him back to his former Charge; but he requires *Cynegius* the *Præfectus Prætorio* to admonish all Judges subject to his censure, that they should not look upon the Services of Corporations as Punishments, by forcing any to them; and he gives this reason; For that Punishment, really such, and not any Dignity ought to follow an Offender. And indeed it's held for a Rule, that Punishment ought not to make the condition of the punished party to be equal to what it was before, much less ought it to render it better than it was formerly. So careful was he to save that vast Expence, which, in these days, wherein Christianity could not yet put an end to the former Pagan Extravagancies, was made by *Prætors* in their Games and shows, which they were bound to set forth to the People, that instead of four this year, he caused eight to be created, and appointed the Charge they were to be at, by another Edict directed to the Senate. One of the *Prætors* was once from *Constantius Chlorus* called *Flavialis*, and was the first in order; but afterward was put out of Place, and he that from his Son was named *Constantinianus* was the first in Rank, and *Flavialis* at length was quite abolished. But to him, who from *Constantine* the Great had the Name of *Constantinianus*, another was added, who from his Son was styled *Constantians*. There was moreover one called *Triumphalis*, from the old Triumphs during the Commonwealth, and a fifth known by the name of *Romanus*, from the City of Rome, which *Constantinople* owned for her Mother. All these five were in the days of *Constantius*. In the Reign of *Valens* were but four; and so many continued till this very year, but not with the same Names. *Constantinianus* and *Constantians* continued only in being, and in the room of the rest the Senate had introduced lately two others, from the Names of the present Princes termed *Theodosianus* and *Arcadianus*. But now of the old ones *Theodosius* restored two, viz. *Triumphalis* and *Romanus*, and two he added a-new, viz. *Augustalis* and *Laureatus*, and so made them eight, or four pair in all, though under the Government of his Son *Arcadius* they seem reduced to that of seven. Having thus made them Pairs, he will have each Pair to pay so much towards the expence of the Games, as one Person was formerly wont to do. Namely, "That of *Constantine* and *Constantianus* a thousand pounds of Silver. That of *Theodosius* and *Arcadius*, a thousand (or rather less, for some fault seems to be in the Text, his words plainly shewing that he meant a Declension in the sums:) then that of *Triumphalis* and *Augustalis* four hundred and fifty; and that of *Romanus* and *Laureatus* two hundred and fifty pounds.

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L. 3. de Senatoribus & de gloriis etc. Cod. Th. lib. 1. tit. 2.

L. 1. 107. 108. de Donat. Cod. Th.

L. 25. de Pretoribus, etc. Cod. Th. Tit. 10. Kgl. Nov.

He increaseth the number of Prætors.

Scct. 4.
The Consul-
ship of Arcadius and Bas-
tia.

17. The CCCLXXXV year of our Lord had for Consuls *Fl. Arcadius Augustus* and *Fl. Basso*, being the tenth of *Valentinian* the second, and the thirteenth Indiction. *Theodosius* this Year made his Abode at *Constantinople*, and *Valentinian* continued at *Milan* till nigh the Month of *September*, when he removed to *Aquileia*, and there staid till the beginning of the next, but that he was at *Venona* some little space. For there he resided upon the account of the *Juthungi* as it's thought, who at this time made Incursions into *Rhetia*, and against whom the *Huns* were called in for Assistance. Under him this year *Noctherius* and *Principius* were *Præfidi Pretorio* in the *West*, and under *Theodosius*, in the *East*, was *Cynegius*; for this and the following. *Paulinus* was *Præfidi Augustalis*, having succeeded to the place of *Optatus*, and *Melissanus* was *Præconul of Africa*. The first Law we meet with in this, as agreeable to other years, is one of *Theodosius* whereby he prescribes the Duty and Work of a *Defensor* of a City to one *Theodorus*, who bore that Office at this time, and therefore seems to have consulted him about his Employment. He tells him, the time he shall Exercise his Office shall be five years (afterward contracted to two) wherein he expects he shall carry himself as a Parent of the Common People. For he must not suffer either those in Towns or Country to be oppressed by any Surveys; but protect them both from the Insolence of Officials, and the daring boldness of Judges themselves; yet so far as is Consistent with modest Respect to their Persons. He gives him leave to have recourse to the Judge of the Province, when he pleaseth. He chargeth him to prevent the Damage or Spoile of such as he now holds as Children, under his Charge, from all such Officers as shall demand more than publick Dues, and by no means permit more to be exacted than the wonted Tax; forasmuch as there is no other way of Remedy for such mischiefs but what his Place and Function affords. So careful was *Theodosius* to mind this officer of his Duty, who received little gain or no emolument from the discharging of it; but more severe he was against another fort, to whom the Care of publick works was committed, or in whose hands money for that purpose was deposited. For there were those they called *Curators* of publick works, or certain Masters of Architecture (*Mechanicks* they termed them) who undertook the building or Reparation of publick Structures, received from the several Cities, Money for carrying them on, and managed the Accounts of the Expences. Under them were those that took the Work by great, called *Ergolabi*, who were answerable to the *Curators*, as they to the Publick. Now because of the great Frauds and Neglects committed in this kind, *Theodosius* ordained, that all such *Curators*, or those to whom the Charge of Building, or Money was committed, should for fifteen years from the finishing of the work itself, or their Heirs after them, be responsible for any fault committed in the Building. If any such Defect appeared, they must answer it out of their own Patrimonies, except it happened by some Accident, and was the effect of meer Chance, not any Neglect on their part.

Gives a check to the frauds of Curators of publick works.

And the privileges of the Curator.

18. We have sufficiently seen how severe *Theodosius* was to all the *Curiales*, that they should discharge their Duties to the Corporations to whom they belonged; now at last we meet with the Reward he appoints them for their long and troublesome Services. By an Edict inscribed to *Cynegius*, he obviates the Design of some who endeavourd to compel such of them as had passed through all Employments of the *Curia* and discharged all other Duties to undergo the Charge of the *Agonotheta*, as they called it; (which was a kind of Priesthood amongst the Pagans, or a Task of presiding at, or governing their Exercises) and put them besides the Honours they might justly challenge as *Emeriti* or *Veterane*. In opposition hereto he positively declares, "That such as had discharged in this manner all other Offices due to their Country, shall not be put upon the prospect that was due to such Persons, and enjoy the Honour and Dignity of *Comites*, which in this Age was conferred on them, as in others, other Honourable Qualifications. And this Dignity he will have to stick by them, although they never stood for it, never desired it, nay, though they refused it, and by all means sought to decline it; for this Splendour he would have accompany the Quality of the Person, and that during Life; whereas sometimes this Honour lasted only for some shorter Term." Thus where a Respect was had to the publick Concern, that other Men might by a Prospect of Reward be encouraged to serve their Countries, were Persons ever constrained to accept of Honour; as here, not only of the Degree of *Comites*, but also of receiving a Kiss from the Governours of Provinces, and

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Arcadio
A. et. Bas-
tione Cofi.

L. 4. de De-
fensoribus Civ-
itatum. Cod.
Juli. lib. 1.
tit. 55.

L. 24. de Op-
eribus publicis
Cod. Th. & L.
8. cod. Juli.
tit. tit. Dat.
3. Nov. Fieri.

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and fitting with them upon the Bench; for this *Theodosius* ordains in their Favour, as well as the other. But whereas the Governours of Provinces had great Inspection over these Corporations, and right or wrong, were wont to beat the *Curiales*, or Senators thereof with Plummetts; forasmuch as Injury was thereby thought to be offered to the whole Body, the Court it self upon the solicitation of the Party was wont to be concerned, and accuse the Judge, as they thought with greater Load, because with larger Interest and Reputation. But for that this Accusation was made without any Solemnity, and the Parties thus accused, by Decrees of the Courts, often were thereby born down and injured, being taken for no better than Convicted Persons; *Theodosius* thought fit that this Accusation should be made in the Name of the *Decurio* himself who pretended to be injured; but notwithstanding, the *Præfidi Pretorio*, to whom the Complaint was made, should punish the Offender, as having been Injurious to the whole Court. This Law he directs to *Cynegius* his *Præfidi*, to whom he gives the Titles of *Illustrious* and *Magnificent Highness*; and telling him that forasmuch as no Accusation ought to be made by a second Person, he will have him, with that Justice and Equity by which he was known or taken notice of, to punish a Judge who should beat in that manner any Innocent *Decuriones*; or his Officers if they were silent upon such an occasion. The *Præfidi Pretorio* we have sufficiently seen had Jurisdiction over the Judges or Governours of Provinces. And great is this Testimony the Emperour gives to this *Præfidi*, while yet in Office, that he was Renowned for Justice and Equity. But he Charges him only to punish a Judge, as should be beat an Innocent *Decurio*; whereas by some former Laws he forbids any of that Condition to be beaten with Plummetts, how Guilty soever. He changed the Course and Rigour of his Laws, as he found the Condition and Circumstance of the Persons to Change.

L. 15. de Ac-
cusatione. & De-
fensoribus. Cod.
Th. & L. 14.

He bridges the boldness of Calumniators.

19. Further, about this time the Number and boldness of Informers and false Accusers did so increase, that to satisfy their Malice, or bring about their ends, and yet avoid the punishment due to Calumniators, they were wont more than formerly to use the Names of other Men therein, and pretend to do it upon the Account of others. Yet there was one Cafe which in this matter of Accusation deserved that a Distinction should be made, and that was of Guardians or Tutors, who in managing the Estates and Concerns of their Pupils, were often by Exigency of their Affairs put upon it, to accuse their Adversaries of Falshood, Forgery or other matters. Now it being not their own Business, it seemed hard they should make the usual Inscription required by the Laws, or submit to the punishment due to the offence, if not proved; and yet it often so happened, that several such Guardians might make use of the Advantage their Trust afforded, to loaden with Calumnies those to whom they bore Malice. Therefore a middle way was found, that those who exercised such Charges, should make the usual Inscription, but not with that Danger which hung over them that accused in their own concerns; for if it proved not an evident Calumny, and plain, that wittingly and willingly with a malicious Intention they made the Accusation, no Penalty was to fall upon them. But there was another sort of Men, who would not seem to do it in the Name of another; but only to assist the Accuser in way of Duty, Officialness, or Friendship. In this manner *Aplucius* complains to *Maximus Claudius* the Judge, or Proconsul, that one *Emilianus* Craftily went about to accuse him of Magic, by way of assisting *Sicinus Pudens* a Boy, of adult Age; which the said Judge refused to admit, and would have him do it in his own Name, as the Law required in the Cafe of Tutors and Curators when their Pupils or Minors were admitted to accuse. There were others who to satisfy their Malice would not Commence the Accusation in another mans Name, but yet make use of his Name who they pretended was injured; as by saying that the party killed was their Father, thereby to evade the punishment due to a Calumniator, which he escapes, whoever revenges his Fathers Death. But they were not so properly said to do it in anothers Name, as those who being suborned for the same purpose, either at the beginning of the Accusation openly named him from whom they had Instructions to do it, or else did it without mention of him, though at his furtherance and desire; but both of them were punishable by the Ancient Law, as well the Accuser, as he from whom he had it in Charge. What the Law formerly had determined against Accusations, made in the Names of others, *Theodosius* now confirms, seeming to aim at those who had some Authority and power, and therefore were made use of, by such as imagined they had not sufficient Interest to carry them through, to Impach those

L. 2. de Calum-
natoriis. Cod.
Th. & L. 8.
tit. tit. Cod.
Juli. Dat. 8.
Id. Maij. Cae-
rentino.

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to whom they bore Malice, as having committed something against the Prince himself. Though the Emperor or his Treasury might hence reap Advantage, yet such an Accuser failing of Proof, he declares shall be punished with Deportation as a Calumniator and Infamous Person; that all manner of Persons may take Notice, that they must not raise the Choler or Indignation of Princes in any thing they cannot prove.

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20. But, whereas to prevent the vexation of Accused Persons, that their Innocency might be either cleared, or their guilt the sooner discovered and punished, the ancient Laws ordained, That the Prosecution should be terminated within the space of one year, to be reckoned of old from the time of the Inscription, if the case required it, or, more lately, from the contesting of the Suit, and that under penalty of incurring Infamy by the Prosecutor; this Theodosius, by an Edict directed to *Defidarius* the *Vicar of Africa*, confirms, and further adds Confiscation of a fourth part of his whole Estate. And indeed, great Cause there was that some dispatch should be made in such Criminal matters; such Persons as were in Bonds, and answering for themselves lying under great disadvantages, as being put out of Capacity of manumitting, making any Deeds of Gift, of giving Testimony, impeaching others, or obtaining any Honours. But as Theodosius shewed himself a great Enemy to rash and Malicious Accusations, so where he thought the Cause required it, he gave way for effectual Prosecution. The Custom against the *Romans* was, that Slaves could not ordinarily be examined by torture against their Owners; but by a Law inscribed to *Cynegius*, this year, he declared that it might be in two Cases. Of old time it was permitted in Case of Incest, and in that only, till the making of the *Julian Law*, by which it was also allowed in that of Adultery.

Now Theodosius declares, that if a Man accuse his Wife of Adultery; nor only his, but her Slaves also, shall be by Torture examined; none excepted but those that were absent at the time when the Crime was Committed, who yet were not excepted by more ancient Laws. And he further allows this severity in examination of Slaves, both against Master and Mistress, in Case each attempt the Life of the other, having the same respect to this sort of Fault in them both, because equal on both sides, whereas that of Adultery is greater if Committed by the Wife. This was directed to *Cynegius* at the latter end of the year, who after it received one more in behalf of the Countrymen that were oppressed in the Carriage of Provisions for the Army to the several Mansions. He will have the conveyance to be made by those that lie most conveniently for it, and not by them that lie at a distance, except it be the Provision for the Soldiers, upon the Limits, to whom a more than ordinary respect was shewn, for the great concernment of his Service against the Barbarians. For at this time as we have already seen, and shall more, they pressed much upon the Empire, and, if Credit were to be given to *Zosimus*, they were invited in by the Provincials themselves now harassed with Taxes. However, this Exception displeased *Justinian*, who taking the Law into his Code, yet left it out. And indeed both *Valens*, and *Valentinian* the Elder, his Brother, were of Opinion, and declared, that even the Provisions for the Limits should only be conveyed by those Possessors that were nearest at Hand.

21. But let us make some inquiry after *Valentinian* the younger, and see what he Enacted of Consequence, while Theodosius thus concerned himself. We find him endeavouring some Reformation in the Course of Judicature, there being at this time in his District, some Faults committed by the Judges themselves, but especially those that had occasion to sue in their several Courts. For too common it was for them to neglect and pass by the ordinary Judges of the Provinces, and betake themselves to the higher Tribunals of those called *Speiabiles*, or of the *Illustrious* Prefects; possibly by reason of the negligence or corruption of some Judges; but especially out of contempt and disdain conceived by those of Birth and quality, when they saw Persons of mean Descent and Merit preferred to such places, as was that *Terentius* the Baker, mentioned by *Ammianus Marcellinus*, who was made *Corrector of Tuscany*. However this Contempt of the Ordinary Jurisdiction carried with it two manifest injuries and Inconveniences. For thereby was the Judge of the place slighted and brought into Contempt, to the violation of all good Government; and the Defendant, or Party sued, was drawn away from his own Province to Courts afar off, to his great Charge, detriment and vexation; which being a thing unsufferable, upon this Account it was, that rarely were any called up before the Emperor, however he took Cognizance of Causes. By an Edict directed therefore to *Neoterius* his *Præfectus Prætorio* under

P. Valentinian
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to secure the
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of ordinary
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der whose Authority the Governors of Provinces were, *Valentinian* expressly forbids that any Persons whatsoever, except Women or Minors (who by reason of their Infirmary, were indulged often by the Lawes) pass by or despise their own proper Judge, or the Judge of the First Instance, and betake themselves to an higher, or one of the second Instance, directly and, as it were, *per saltum*. Any offending in this kind, he ordains as a punishment, shall lose or forfeit his Cause, which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the *Secretarium*, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same *Neoterius* in another Edict, that he will have the *Municipes* of every Corporation, when they Challenge any of their Members that abscond, to betake themselves to no other Court for satisfaction therein, than that of their own Province, giving it for a Rule, *That none ought to imagine any Jurisdiction so Competent as that of his own Country*. On the other Hand, he will have every *Curialis*, who has governed a Province, to know, that he shall never reach the *Senatorial* Dignity, except he discharges all Dues to his Corporation, in Case he owe any; thereby forcing back Governors of Provinces to the Courts, which though it seemed good also to Theodosius, yet other Princes were of the contrary Opinion: however by this it appears, that the *Senatorial* Dignity once attained at this time, put one out of Danger. If the *Municipes* themselves by any trick hindered the Execution of this Law, or did not force back their Members, he fines the Body in thirty pounds of Gold. For, *Persons of a public Capacity, may not be free to despise their Profit, or Advantage*.

Proceeds to
Reformation
of Courses
of Justice.

22. Yet still did *Valentinian* to concern himself about the Reformation of Courts of Justice, that knowing the ordinary perfidious and mercenary dealings of the Apparitors belonging to them, and how by reason of their Absence often in Collecting the Revenue and other Employments, they might presume upon the benefit of the Law, which regularly Condemns and punishes none absent or unheard, he declared that they should enjoy no benefit of it; but might be punished as Right required, though in their Absence. In Case such Apparitors, or Officials of Judges, fled and concealed themselves, he commands that they be, by an Edict openly propounded, cited to appear. If they refuse, then shall the Judge give Sentence against them; and he cuts off from them all hope of Pardon, that despairing thereof they may not expect to escape either by Flight, or by any Remission of the Crime. Not long after, by another Law inscribed to *Romulus*, the *Consularis* of *Emilia* and *Liguria* he endeavoured to cut off the tediousness of Suits, ordaining That after Denunciation made, or the Citation served, the usual Intervals of time should not at all be continued or lengthened, nor not by the Authority of a Receipt obtained from the Emperor himself; for whereas formerly, at the beginning of Suits, the Plaintiff was wont to give security; *Marcus Antoninus* the Philosopher removed that Solemnity, and introduced this Custom of Denouncing this sort of War, or giving warning to the Party to Answer by a day, which Custom yet was omitted and left off in the time of *Justinian*. For prevention of those continual Troubles, which arose about the *Curiales* forsaking their Charges, he ordained about this time, by another Law, that whosoever should desire to take the Oath of the (Military) Girdle as he terms it, or lift himself a Soldier, should first in the City, where he was Born or first Inhabited, publicly and solemnly then that he neither descended from Father or Grandfather obliged to Municipal Services, nor any way himself, was concerned in them; if he produced such Testimonials from the Register that he had sufficiently made this out, then was he to be admitted, or else to be drawn back, and for ever subjected to the Services of the Courts. And he threatens the *Curiales* themselves, if they should be found, out of favour or affection to dismiss any of their Body, by giving any false Testimony in his behalf. Still further for preventing Delays in Suits, and to bring Causes to a speedy Issue, even where he himself

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L. 6. De Juri-
dict. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-
L. 110. De
Jurisdictione
cod. de Juris-
d. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-

L. 14. De Pro-
curia cod. de
Juris d. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-

L. 15. De Co-
heretibus
cod. de Juris
d. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-

L. 4. De Den-
untiatione
cod. de Juris
d. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-

L. ult. Quia
procurator de-
bet cod. de
Juris d. & ubi
que convenit
debet cod. de
Caus. which in many other Cases, is imposed by the Laws upon such as disturb the Course of Justice. But to prevent any Complaints which might be justly made against ordinary Judges, their Corruption or Pride, he propounds two expedients. First, he alleges that any unjust Sentence given by them, may be reverted by a due and orderly Appeal. In the next place, if the Party could show that the ordinary Judge, either out of Pride or partiality, either refused or delayed to hear him, he should forfeit to the Exchequer the value of the thing in Controversie, and upon the chief of his Officials or Apparitors, and their Adjutants, who amongst other Employments, introduced or admitted Causes into the Secretarium, he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he was so far further careful at this time, that their Authority should not be neglected, that he tells the same Neoterius in another Edict, that he will have the Municip-

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was concerned, he obtained by a Law sent to *Messianus* the *Proconsul* of *Africa* that in all *Fiscal* causes or relating to the Treasury, if the Party lived in the same Province, the matter should be dispatched in two Months time; if in a neighbouring Province, for producing of Witnesses or Papers, four Months; and no more should be allowed; and fix, if his Habitation was beyond the Sea. And this should hold if the matter was brought in the first Instance; if in the second, or upon Appeal, the Debate should be terminated in the first Cafe within twenty days, and in the second, within as many more. These Rules he would have observed; if he had but Cognizance of the Cause was as an Ordinary Judge; but in Cafe the *Comes Largitionum*, or the other *Res Privatae*, and heard the Causes themselves; for that they did it sometimes extraordinarily, and as the weight or importance of them required; he left them to the Liberty allowed them by Ancient Custom; and yet by another Rescript in Transmarine Judgments, he confines an Appeal within a year.

23. He found out about the same time another grievance lying upon the People, from the Collection of the Revenue. The ordinary Judges or Governors of Provinces, who were trusted with the Collecting of Tributes, did now employ the *Palatine* Officers belonging to the two Treasurers therein, either for that they found them more honest than their own Officials, or rather, because they carried more Authority along with them. But this Awe and Authority they improved to the vexation and oppression of the Subject, and therefore he commands *Principius* his *Præfēt*, that if any Judge employ a *Palatine*, either in the Collection of Dues, or Commit the Execution of any Sentence to him in any private Cause, as well He, as his Office, shall for every such Offence, incur the Penalty of five pounds of Gold. But now the Offices of the Ordinary Judges seem to have been exhausted, possibly, because of the many severe Laws made against their Avarice and Rapacity, whereby they were hindered from enriching themselves as formerly they had done. Therefore toward the end of this year by two other Edicts, directed to the same *Principius* he took order that such as were in these Employments already, should not forsake their Stations; and for the Supply also of those that were actually void. As to the former, he forbids that any quit his Station under pretence of adorning the Purple, or aspiring to any *Palatine* Office; To that Adoration he will have no Officials of Governors of Provinces, admitted; and of those belonging to the *Præfēt* *Pretorio*, the *Præfēt* of the City, and to *Vicars*, only such as by a solemn Right, every year after the term of their Employments fully expired, were allowed to do it. Now of those belonging to the *Præfēt*, not only these called *Principes* of the Office, but the *Cornicularii* and *Numerarii* might do it; but of such as attended the *Vicars*, only the *Principes*; But neither by aspiring to the place of a *Palatine*, nor of an *Agens in Rebus* will he have them forsake the Service, under penalty, not only of being forced back to it again, but of forfeiture of half of their Estates, and being constrained to undergo the Burthen of *Manipes*. But for the Supply of Vacancies, though this Prince (as we have seen) was very severe against those that under any pretence forsook the Services of Corporations, yet he now permitted any *Decuriones* that served these Judges in quality of *Exceptioners*, in writing Records to continue; provided, they forsook not the Duties belonging to the Courts; and when they had discharged the place of an *Exceptioner*, then returned to their former Obligations, and provided they were not *Cohortales*, nor had allowance out of the Exchequer as the *Cohortales* had, whose Employment yet was sometimes extraordinarily discharged by the *Tabularii*, as need required.

24. As *Theodosius* three years before, so now *Valentinian* found reason to complain of the abusing of his Lenity and Indulgence, by several Persons their procuring Rescripts seditiously or surreptitiously, for easing themselves of the services and payments they were to undergo. Such as by reason of their nearness or convenient Habitations were obliged to convey Provisions for the maintenance of the Soldiers that watched upon the Borders against the Barbarians, had by Friends at Court, or money, obtained Privileges of ease; and thereupon the Garrisons and *Præture* were neglected. This drew from him an Edict to *Principius* (it's probable) for putting in execution an Order formerly made by this *Africanus* (whether a *Præfēt* or some other Officer) for regulating of this Affair, and reformation of what was amiss, though procured by the Power of any

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385.L. 13. de Jure
Fisci Cod. Th.
Dat. 15. Kal.
Ostob. Aquilina
Anst. 1. Cod.
Jul.L. 45. De Ap-
pellat. Cod. Th.L. 10. De Ma-
litiis S. L.
R. P. Cod.
Th. Dat. 1. Idus.
Jul. Siquin.
Aquil.L. 16. De Di-
versis Officiis
Cod. Th. &c.
L. 1. Cod. Jul.
De præfatis
Præfatis Urbis
Dat. 12. Kal.
Ostob. Aquil.L. 17. De Di-
versis Officiis
Cod. Th. &c.
L. 5. Cod. Jul.
De Nominariis
Dat. 4. Idus.
Cim.L. 1. De Juri-
dictione
Cod. Jul. l. 1.
Th. 50. Dat. 8.
Kal. Ostob.
Aquil.To remove
grievances con-
cerning from the
Collection of the
Revenue.He calls in
Privileges
granted as to
payment of
Customs and
other Duties.

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Minister, or the surtive Deprecation (as he calls it) of any Person, forbidding all such Importunity and Inconvenience for the time to come. And he further declares his displeasure against such Rescripts as have been obtained to the lessening of the *Annona*, or Tribute paid in Specie, or otherwise for publick Service, by a damnable Subreption, as he terms it, or Infamation. He pronounces it manifest that such Dispensations cannot be good in Law, and commands that an equal form of Payment be observed, and with good Reason; for if Tributes were neglected, which are the sinews of War, what would become of the Commonwealth? These two Laws bearing the same Date, and agreeing much in their drift and design, are supposed to have made up one and the same Constitution directed to *Principius*, though in *Justinian's* Code his Name be corrupted into *Lucianus*. "But though he was careful of his Revenue, he was as kind, if not as just, to continue the Indulgence formerly granted to the Veterans Soldiers, and not only such of them as had risen to the Protectorian Dignity, but all others who had obtained an honest Mission or Discharge; or Immunity from the payment called *Lastrale Collatio*; but with this Restriction, viz. of as much as came to fifteen *Solidi*; If they trafficked beyond the Bounds of this sum, in Customs, they were to pay as other Merchants did.

But confirms
some to the Vete-
rans Soldi-
etc.

25. The CCLXXXVI year of Christ had for Consuls, *Honorius* the young Son of *Theodosius*, by the title of *Nobilissimus Puer*, and *Fl. Eudodius*; it being the eleventh of *Valentinian* the second, and the fourteenth Indiction. *Cyngius* continued still *Præfēt* *Pretorio* under *Theodosius*; and *Principius* of Italy under *Valentinian*. *Salustius* was *Præfēt* of Rome till the beginning of July, or thereabouts, *Eudodius* and then was succeeded in that Employment by *Prinamus*. In the beginning of the year, *Theodosius* made his abode at *Constantinople*, and *Valentinian* at *Milan*, whence he removed to *Ticinum*, or *Pavia* in February, thence to *Aquileia* about the beginning of April, and thence back to *Milan* in the Month of June. Still we find *Theodosius* Author of the first Law in the Chronological Table, which he enacted at the beginning of the year for securing his People against malicious and scandalous Libels. "Such as should find any such Paper he commands to tear it out that none other may find and read it after him; otherwise if he leave it, or cast it away, or communicate it to the View of another Person, he shall be punished for a Libeller, except he can produce the Author: as also he prohibits him from relating the substance of what he had read and tort, under pain of being obnoxious to the punishments, inflicted by the Law in such cases. And it matters not where the Libel was found, whether in a publick Place or private House, the same Inconvenience being supposed to proceed from either. *Valentinian* the elder, had by an Edict forbidden, that upon a Reference of any Matter to the Emperor, from any of the Judges, the Parties themselves should follow the Process (which was to be transmitted within thirty Days) having discovered that they were wont to apply themselves to great Persons, and by money or favour to work, as to obtain Rescripts, right or wrong, from the prejudiced and abused Princes. "This now *Theodosius*, in another Edict directed to *Cyngius*, declares he had taken into full mature deliberation, and he thinks fit what was before in general and indistinctly ordained, now so far to regulate; that if within the space of a year the Prince his Answer be not obtained, then may the Parties concerned come to Court, and bring with them all the Acts, and the Copy of the Reference or Consultation. For as the Emperors desired to dispatch these Business with the Interposition and purchased Solicitations of their Officers; so on the other hand would they not have these Suits delayed so long as their corrupted *Scribarii* or Judges, by whom the References were made, desired they might be.

Theodosius re-
frains libel-
ling.Persons per-
sons in Suits to
come to
Court.He commands
the Scribes
to use Char-
ity in Con-
sultation.A.D.
385.L. 7. de Di-
versis Refri-
piis. Cod. Th.
L. 7. Cod.
Jul. de An-
nona & Tribu-
tis. Dat. 8. Kal.
Ostob. idem
Principis.
Item L. 2. de
Annona & Tri-
butis. Cod. Th.L. 14. de Te-
stibus. Cod.
Cod. Th. Dat.
ad Principis
Præfatis Trib.
Nov. 200.A.D.
386.Honorio
N. P. &
Eudodio
Cof.L. 9. de Fama-
li libello. Cod.
Th. Dat. Cyngi-
gio 14. Kal.
Fib. Constanti-
no.L. 34. de Ap-
pellat. Cod. Th.L. 47. ed. lib.
Dat. Cyngi-
gio 7. Kal. Fib.
Constantino.Omnes Hono-
rati fidei illius
sua Militarium
dignitatem,
victualia dis-
tributa sibi
(id est carnis
hujus) intra
quatuor sacra-
tissimum muni-
cipium, sicut
statuitur. Dat.
Kal. Fib. Con-
stant. L. an.
de Honorati.
victualibus. Cod.
Th. lib. 14. tit.
12. & L. an.
Cod. Jul. ed.
of tit.

Sect. 4.

He encourages
the Agents in
Ribus.

or the other drawn by four, to the great Officers in actual Possession; as the *Præfets* of both sorts, the *Vicars*, and Governors of Provinces, who according to the diversity of their Dignities, and Places had them more or less stately. We have heard nothing of a good space, concerning the *Agentes in Rebus*; for the reformation of whose extravagant Courses, Princes, as we have seen, were constrained to make several Laws; and that, if we may judge charitably, with some Success. For now we find *Theodosius* extending his Favour to those of them who had run through the several Employments, and come at length to be *Principes* of the Office; for he ordains by another Law directed to *Cynegius*, "That they, for a Reward of their Labours, not only enjoy the place of *Principes*; but that no Officials be sent out upon publick Employment, as fetching up Prisoners, and the like, except by order of the *Principes*; for they had Fees belonging to them from such Services, as also upon Causes that were admitted to be tried, and from such were admitted first to be Officials. Nay, by another Edit directed to the same hand he declares "That by Codicils having given to such as had been *Principes*, the Honour of being placed amongst the *Consulares*. *Adlecti*, he will" by authority of this Law have them honoured by all Judges in that Degree and Quality. He had formerly given them precedence before *Rationales*; but set them behind those that had been *Præfidents*; but it seems afterward had assigned them place amongst these last mentioned, by a Law which is not now extant. Having this Honour conferred on them in the Senate, it's likely that for all that, it became a Question whether they should be received in the same degree of Respect and Quality by the Judges or Governors of Provinces, who looking disdainfully upon them, might grudge to own them so far in their ordinary salutations, and sitting in their Courts; and perhaps *Cynegius*, being consulted, knew not how to advise, and thereupon had recourse to the Emperor. He seems to reprehend the ordinary Judges, it being consequential enough, that if in the Senate they had obtained this Honour, it should also be imparted to them in their Company. But otherwise the Prince, who was the Fountain of Honour, might confer it as it pleased himself. Therefore as *Theodosius* gave the *Principes* of the *Agentes in Rebus* Place but amongst the *Consulares* *Adlecti*, *Theodosius* the younger, conferred on them the Dignity of *Vicars*; nay, *Honorius* his own Son bestowed upon them the *Proconfular* Dignity.

Removes an
Abuse in the
Collection of
Taxes.

27. About this time he endeavoured to remove another Abuse in the Collection of the publick Taxes. When any Tax seemed to be unequally laid upon Lands, an Officer called *Perequator* was sent, who, upon View and other Evidence, might regulate that inequality, by laying the burthen where it ought to be, and give Relief as the case required. His Intelligence he usually had from the Stewards or Managers of the Lands, or from the Husbandmen themselves who had reason to understand the true Extent and Value of the Grounds; and therefore their Lords directed the time of the coming of the *Perequator* would call away their Bailiffs and send them to some other place, or else arm their Husbandmen with contumacy against him, so as to give him no light; for making that Reformation, and inducing that Equality, he came about. To correct this Presumption of the Lords, he ordains "that the *Perequator* shall go on with his work, notwithstanding the absence of the Bailiff, and regulate the Cess as he shall see convenient, and to his Regulation or Perequation the Owners shall be bound, and yield obedience. Thus, by way of punishment, for Contumacy, might a Tax be laid in the Absence of the Owner of the Ground or his Substitute, though ordinarily it could not be without the presence of one of them. For great respect was had in those times to the Property of the Lords, or Owners, though the *Consutores*, or Assessors were wont from their Husbandmen or Tillers of the Ground to Exact an Oath concerning the Quality and Value of them; against which Custom, as opening the way to Perjury and other Inconveniences, *Sc. Basil* declaims in an Epistle written to one of these *Consutores*, as *Gothofred* observes. Now still again he concerned himself for Corporations against such as should defer their Services; so that if a *Curialis* had procured himself to be made a *Senator*, though he had substituted his Son, or any other in his room, yet should he be constrained, to discharge what belonged both to that Substitute and himself; that is, what Service or Expence was due both from a Senator and a *Curialis*; as in like manner as at this time, if one were both a Senator, and a *Dux Rei Militaris*, he was subject to a double burthen of that Payment called *Glebalis Collectio*; such as were *Duces*, when their Offices were discharged, becoming *Senators* upon

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L. 3. de Rebus
Agentis in Rebus.
Cod. Th. Dat.
p. 14. Kal.
Mart. Conf.L. 5. de Agri-
cultura in Rebus.
Cod. Th. Dat.
Non. Martii.
Anni. a. C. d.
J. 4.L. 2. de Con-
suetudinibus. Cod.
Th. lib. 13. tit. 1.
11. Dat. Opta-
tio 6. Kal. Apr.
Nunc interpretat.
L. 3. Cod.
J. 4. de Con-
suetudinibus.L. 11. de De-
curionibus. Cod. Th.
Dat. Oxygite
p. 14. Kal. Martii.
Anni. a. C. d.
J. 4.p. 14. Kal.
Martii. Anni. a. C. d.
J. 4.

Sect. 4.

For the
Proxi-
mum of
the Scrinia.But Refrains
too great Ex-
pence in his
Offices.

upon this very account. Having formerly granted to the *Proxiimi* of the three *Scrinia*, viz. *Memoria*, *Epistolaram* and *Largitionum*, the Honour of *Vicars*, or those that Governed Dioceses for *Præfets* *Prætorio*; by this same Constitution, directed to *Cynegius*, he declares, "That it shall not commence as formerly from the time of their going out of the Place of *Proxiimus*, but upon their very entering upon it. But as hereby he was very indulgent to his Officers, so was he about the same time, as good an Husband in the management of the Revenue, with which some of them made more bold than welcome. Two years ago he declared, That, except those whose number and service was set and defined, none whatsoever should have the usual *Annone* or Allowances, nor receive the usual New-years-gifts, nor any more than his set allowance. However most of the *Palatines* belonging to the *Comes Largitionum* had exceeded their Bounds, and both as to New-years-gifts, Cloaths and other things had procured more than what was allotted to their Quality and Condition. For, besides New-years-gifts, which the Prince was wont to distribute in Gold on New-years-day, to those that served both in Camp and Court, they had other Allowances which consisted in four things, viz. the *Annone*, properly so called (which were Corn, Wine and Horse-meat in specie) Cloaths; Silvers; and that they called *Ministerium*, or Servants to attend them. And sometimes the case required that some Persons for their extraordinary Merit, and an Encouragement to others, should have the Allowance of those above them, each having more or less allotted him according to his Degree. But the Bounty and good Nature of Princes was so abused, or those who had the oversight so corrupted, or partially inclined, that the standing Rule was broken, and undeserving Persons got the greatest share; which preventing all rewards due to Virtue, and diminishing the Revenue, *Theodosius* now commanded *Proculus* his *Comes S. Largitionum*, "That what any man had more than his Due, should be taken from him, and that he should see that no man had greater Allowance than what belonged to his Place and Quality.

The Rapacity
of publick Mi-
nisters great at
this time.

28. We must confess, that herein we may believe *Zosimus*; that at this time, or a little before *Theodosius* his shutting up all the Pagan Temples, great Clamours were made by the People against the Covetousness, Rapacity and Corruption of Judges; although his Malice drives further, and derives it from other Causes than he ought. This the Emperor, by a publick Edit, directed to the Provincials, testifies himself, wherein he commands, nay intreats them, that if any of the *Honorati*, *Decuriones*, *Possessors* of Lands, nay, *Coloni* or Husbandmen themselves, or any other of whatsoever Rank or Quality, were by any Judge any way injured; if he knew any such who had been bribed to give Sentence, that had spared any guilty person for Reward, or punished out of Revenge or Malice, or, in conclusion, could prove any Judge to be corrupt, such an one would either, during the Administration of such a Governour, or after the expiring of his Office, come forth, accuse, and make good his Charge; and if he so did, he should carry away both Victory and Renown. Hereby, though ordinarily a Magistrate could not be accused during his Office, which was usually for Term, yet he permits, nay desires he may be charged when in Authority. And as *Constantine* the Great, formerly upon conviction of the Offender, promised the Accuser his Dignities and Estate; so by Glory and Renown, are not here to be understood Dry and Empty Fame, but Employment in the Commonwealth. Upon this same account, perhaps, it was that about this same time he forbids "That any *Apparitor* belonging to the *Præfets* *Prætorio*, any *Palatine*, any Souldier or other, that had continued in such Employment, be by a Judge in his Province commissioned to put any Sentence in Execution, at the request of any Person that hath a Suit depending, whether it be in a publick or private Cause. If he permitted it contrary to this Order, both he and his Office should not only incur loss of Reputation, but damage also in his Estate. The *Apparitors* of *Præfets* were very high and insolent, as we have seen formerly, the *Palatine* Officers also bold and confident, a Souldier fierce and cruel; and one long practised in Acts of severity would have little Pity; therefore all of them were unfit to be employed; for they would oppress the poor Provincials, and be proper Instruments for a Corrupt Judge to bring about his Rapacious Designs. But while thus *Theodosius* employed his time in relieving his People against the oppressions of seeming Friends, or homed Enemies; Noise was made of publick Hostility; that *Thrax* was invaded by those who carried not only Destruction in their Hands but openly in their Faces. Against them therefore he turned himself.

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L. 1. de Proxi-
mum, &c. Cod.
Th. p. 14. Kal.
Martii. Anni.
a. C. d. J. 4.L. 11. de Pala-
tina S. L. &
R. P. Cod. Th.
Dat. Non. Martii.
Anni. a. C. d.
J. 4.L. 6. de Legem
Julianam Repu-
blicam Cod.
Th. p. 14. Kal.
Martii. Anni.
a. C. d. J. 4.L. 8. de Officio
Rationum Pro-
vinciarum Cod.
Th. lib. 1.
tit. 4. de
Officio Non.
Anni. a. C. d.
J. 4.

Sect. 4.

The Geruligi desire to pass the River.

Are defeated by Promotus.

Geruligi desire to pass the River.

29. A certain Nation now appeared beyond *Ister*, unknown to other sorts of People, but called by the Barbarians of those Tracts, *Gruthingi*, *Grutungi*, *Gothungi*, or by other Names resembling these; each Country differing from other in its Pronunciation, especially of strange and foreign words. This Nation being too Numerous, furnished also with Arms sufficient for a bold Undertaking, and excelling in strength of Body, made no difficulty of piercing through the Territories of other Barbarians that lay in their way, and came to the Banks of *Ister*, which they demanded leave to pass. *Promotus* who Commanded as *Magister Militum*, in these Parts, extending his Forces as far in Length as he could, upon the Rivers side, opposed them all he might, and to his other Attempts *Zosimus* tells us, he added this Device. He procured some whom he could Trust, and that understood the Language of the Barbarians to go over to them, and promise for a very good Reward, to Betray both the *Roman* Captain and his Army into their Hands. The Barbarians affirmed they could not pay so great a sum; but the Messengers, to gain the firmer Credit, still insisted upon it, and refused to make any Abatement; at length they came to an Agreement, and part of the Reward by virtue thereof was to be paid down. All things being agreed both as to time and manner of the Fact, the Messengers then acquainted the General in what way the Barbarians would Attack him when Night should come. The best part of their Army they put into Boats, and ordered it in the first place, to Land, and fall upon the sleeping Soldiers, the next in worth they agreed should give those Relief, as occasion should serve, and then the rest were to follow. *Promotus* making Use of his Intelligence, got together his Boats, and placed them so, as the Prowes were inward or looking one toward another. He placed them three in Depth, and in length stretched them out for twenty Furlongs on the side of the River, whereby he kept the Barbarians from Landing, and meeting those who came in their little Boats, sunk all he could light upon; for the Barbarians, the Night being dark proceeded with all Confidence, knowing nothing of the preparation of the *Romans*. At length, *Promotus* made Use of his great Vessels, and plied his Gallies to with Oars, that he overturned all before him, or if any escaped, they fell into their Hands who were placed all along the side, and there perished, none being able to pass this Rampart. So great a Slaughter being made as scarcely had been known in a Fight upon the Water, the River was filled with dead Bodies, and covered with Weapons, which were of such Materials, that they would not sink. If any men could Swim they escaped not them, who were appointed to receive them in the Arms of Death before once they could get to Shore.

30. The Flower of the Barbarian Army thus destroyed, the Roman Soldier betook himself to his Booty, seizing as he could, the Women and Children, with such Plunder as he could find. *Theodosius* the Emperor lying not far distant, *Promotus* sent for him that he might be witness of the Victory. He having viewed the number of the Prisoners, discharged them of their Bonds, and gratified them with Gifts, by this humanity to gain their Affections, that he might serve himself of them in the War he designed against *Maximus*. *Promotus* was continued in his Command in *Thrace*, and reserved for the same designed War. And here our Historian acquaints us with another story like to this, which he thinks it worth the while to relate. In that part of *Scythia* which was contained in *Thrace*, was a Town called *Tomus*, held with a Garrison, and commanded by one *Gerontius*, a man excelling in strength of Body, and otherwise very able in matters of War; and near to the Town lay some Barbarians quartered there by order of the Emperor, who had made the best Choice he could, and indeed they were men every way excellent for Accomplishments, both of Body and Mind. Yet though by him they had been cared both with greater allowances and honours, than other persons, yet never did they cast in their Heads how they might make answerable Returns, but both contemned the Governour and his Garrison. *Gerontius* was not ignorant of their Demeanour, nor that they had a Design upon the Town to make Disturbance, which resolving to prevent, and chastise their petulant humour, he communicated his Purpose to the most prudent of his Soldiers. They hung back out of fear, apprehending the strength of the Barbarians such as they should not be able to grapple with it; which he having found, resolved with his own Guard to oppose himself against them all; and out of the Gates he issues, while his Men either slept in the Town, were by fear held in their Quarters, or repaired to the Walls, thence to behold the Success. The Barbarians fell on deriding his Madnefs, who seemed

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Lib. 4. p. 752.

Auf Danubium quendam transiit Gruthingi in lictis progreffus, ut milites transirent per fluvium prope locum in amonibus alai. Dux Odathius erat, tunc cois nuntia claffi. Incipiens alai et primus confectus annu submersi fidei vate et. Et claudians de confectis.

Sect. 4.

Theodosius not far distant as the Defeat of the Geruligi.

Justly called Gerontius to Account.

to them, to court Death, and sent out some of their stoutest Men against him. With one of these he grappled, and contended so long, till a Soldier of his Guard beholding them so yoked, cut off the Arms of his Enemy, and threw him from his Horse, which done, *Gerontius* fell upon others of the Barbarians, to their no small astonishment at his Valour. By this time they that beheld from the Walls, overcome with Admiration at the valour of their Governour, and Shame that they should stand idle while he so gallantly demeaned himself, resolved to Act like *Romans*, and issued out of the Gate upon the Barbarians. Some of them they killed, and such as escaped fled to a place honoured by Christians, and esteemed as an *Asylum*. Now *Gerontius* having thus delivered *Scythia* from imminent Dangers, by Conquering the Barbarians through his great Valour, expected to be rewarded by the Emperor. But he was not a little angry at the Death of those he had so greatly honoured, though they had proved the Bane of the Common-Wealth; and causing him to be apprehended, he called him to Account for the great Service he had performed to the *Romans*. He pleaded, that the Barbarians were Rebels, urged their Rapines, and related what Slaughter they made of the People: but the Prince would not hear him, but persisted in this Opinion, that he had destroyed the Barbarians not for any good he thereby designed to the Publick, but to get to himself the Gifts which he had formerly bestowed on them. As to this, *Gerontius* replied, that he had sent away those things (being Golden Chains) after the Death of the owners, into the Treasury; but for all this, he could scarce redeem himself from imminent danger, by all he bestowed upon the Eunuchs; so well was he rewarded for his fidelity to his Country. Thus *Zosimus*, or Malice for him.

31. The Substance of his Story concerning *Promotus* and the Action against the *Geruligi*, we have reason to believe; though to it other Circumstances may be added. He confesses that at the time of the Victory, *Theodosius* was not far off, and indeed we find him at this time departed from *Constantinople*, and distant in *Thrace* at *Melanitis*, some eighteen Miles from the City. For, thence on the third of September, he gave out a Constitution to *Cynegius* for the better Conveyance of Corn and Provisions to the Army, forbidding on pain of Death, that it should be done as formerly, as that those that lived in Inland Countreys should carry it to the Maritime, and those that inhabited in the Maritime Tracts to the Mediterranean. This no doubt had relation to the War he now made upon those Invaders, having in it possibly seen the Inconveniences that arose from such a preposterous sort of Conveyance. On the same day he inscribed another Edict to all *Comites* and *Magistri Equitum* and *Peditum*, wherein he charges them that they take such Order with the *Duces*, *Tribunes*, and *Prepositi*, that all that were Fugitives may be returned back to the places or Courts to which they belonged, both from the Army and the divers Offices to which they had betaken themselves; no prescription of time being allowed them, if their Fathers or Grandfathers were *Decuriones*, and he threatens the *Decuriones* themselves if they do not accordingly force them back whereforever they are found, and how unwillingsoever they be to return. This Law we may also suppose to be made, when the Barbarians were beaten, *Thrace* delivered, and there was now remaining no such great need of Soldiers. As for the other Story *Zosimus* tells, of *Gerontius* his bold Adventure and Success against the Barbarians; however it proved, any unprejudiced Person would say it was more prosperous than advised; and that *Theodosius* in prudence had reason to call him to Account. For the Rules of good Government will not permit that a Private Officer, as he was, shall without Orders attempt a matter of such Concernment, when the safety of a Garrison and the publick Faith is concerned. *Tomus* was not so far distant from *Constantinople*, nor the Danger so pressing and sudden, but that he might have acquainted the Emperor himself therewith: at least some of his Superior Officers. If private Men may so run on their own Heads, it's needless to have any Superior Directors. *Gerontius* though he might not be inamoured of the Golden Chains about their Necks, yet seems to have been Angry with the Barbarians for their so well faring; a wonderful Heat it must have been that hurried him on upon such an Enterprize contrary to the Judgment of those about him, and without any Assistance, or probability of escaping. But see the Malice of this Pagan Writer. What he condemns in *Theodosius*, he would have commended in *T. Manlius Torquatus*, or *L. Papius Corsus*.

32. However, *Theodosius* on the twelfth of October, returned with his Son *Arcadius* in Triumph to *Constantinople*, where having leisure to hear Complaints, and

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L. 22. de Annona et Tributu Cod. Th. c. 1. p. 2. Just.

L. 113. de Decurionibus Cod. Th. c. 1. Just.

Sect. 4.

agree with some other People. And therefore as to this point *Theodosius* the Younger afterward thought fit once that the *Præfidi Prætorio* should first confer whether it were best that the Messengers should come to be heard, or not; and at last resolved they must be heard in his own Presence.

36. But as *Valentinian* gives liberty to his People to make their applications to him, and make known their Grievances, so on the other side he enjoys them, that they bring only probable things, and not trouble him with Superfluities or Trifles. And to this purpose he declares, that the Messenger shall exhibit all the Decrees, or the Substance of what he had to say, in Writing; otherwise he shall not be heard, but dismissed without his business done. For oftentimes it happened, that when these Messengers exhibited their Instructions, besides them they pretended that something was privately enjoined them which they durst not commit to Writing, for fear of some great man whom it touched, the Interest of whom they found cause to apprehend about the Prince; and sometimes under this pretence they took occasion to vent their malice against one or other, according as their Passions or Interests led them. And for want of this Authentick Warrant and Testimony, the Messengers themselves might be brought into question, they that sent them denying that they had any such thing in Command, as we have already seen in the case of *Jovinian*, when the *Tripolitani* were so wrought upon by the Arts of *Romanus* the *Comes of Africk*, that they denied they had given him any such thing in charge to deliver to the Emperor, which made the poor man wrongfully accuse himself, and by endeavouring to shun, to incur punishment, saying that he had lied to *Valentinian* the Elder, who thereupon commanded him to be put to death. "In the last place the Emperor takes care, that the Messengers be not performed at too great an Expence to the Publick, or too much burthen to the *Cursus Publicus*. Therefore he defines the numbers; that each *Dioecese* send a but one or two Messengers. To these two or one he commands that the *Rhedæ*, *Cursuales* be assigned when they come, for their Conveyance. This is the same with the *Carpentum* or *Quadrigæ*; and the weight of a thousand pound was put upon it; drawn in the Summer time by eight Mules, and in the Winter by ten; whereas the *Carrus* had but six hundred pound weight, and the *Bovata* had but two hundred. As for that called *Angaria*, it was drawn by two Yokes of Oxen, and fifteen hundred pound weight was put upon it. "Therefore one *Rhedæ*, *Valentinian* grants to one or two Messengers of a *Dioecese*; and but one *Angaria* to all the Messengers of the several Provinces of one *Dioecese*; for, they might each send their Messengers, but he would allow them all but one *Angaria*, thereby consulting for the good of the Provinces; but withal for the ease of the *Cursus Publicus*.

37. But of all sorts of men none was more beholding to him than the *Nauticularii*, in behalf of whom, now lying at *Aquileia*, he made a brisk Law, or rather revived one made by *Constantine*, out of which his was transcribed with little alteration. It commands that all *Nauticularii* through all Ages, be relieved from all Burthens, Services, Conlations and Oblations, of whatsoever place or Dignity they be. And whosoever shall Act contrary to this Law, whether he be Keeper of the Wharf (*Custos Litorum*) Provost of the Customs (*Vestigalium Præpositus*) Excisor, Decurio, a *Rationalis*, or Judge of any Province, he shall suffer death; with a Confiscation of his whole Estate, which he adds to the former Penalty. He had observed (or his Counsellors for him) a custom used by such as begged Estates; that having obtained them from the Prince, as flattered to him, they would endeavour to terrify him that was in Possession, and tire him out with a tedious Suit: Now proceeding against him, and then again desisting, with this Design, to constrain him to purchase some certainty and quiet, by parting with a share of that, which, if the matter came to be fully and indifferently heard, they despair of obtaining, by course of Justice. Therefore to put some bounds to this Liberty, he Ordains, "That if after three Citations, such an one do not appear with the Accuser, ready to make good the Allegation, he shall not only lose what he begged, but be Condemned in the expence of the Suit. This he enacted at *Milan* (being thither returned from *Aquileia*) and some other besides. It was prohibited by former Laws, that any person should govern a Province wherein he was born or dwelt; which Custom is observed here in *England* as to our Justices of Assize, and with very good reason, such as any one may easily apprehend. "But now further, *Valentinian* forbids several Officers also of the Magistrates from executing any Sentence relating to the Publick, or to private persons, in the Province of their Birth or

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386.Obligate the
Nauticularii.Refrares
such as begged
Estates.And makes
other Laws.L. 17. de No-
viciis. Cod.
Th. Dist. 11.
Principium
P. F. 12.
Kcl. Nauti-L. 11. de Pri-
vilegiis. Cod.
Th. Dist. 11.
13. Det. ad
Gorgoniam
Cen. R. P. 8.
Id. Jan. Abh.
a Cod. Juf.L. 4. de Ex-
pensis. Cod.
Th. Dist. 11.
8. & L. 2. Cod.
Juf. de dis-
p. Officiis. Det.
ad Eusebium
3. Nov. Di-
cens.

"Habitation.

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Habitation. He tells *Eusebium* his *Præfidi Prætorio*, that none of his Apparitors, none of the Palatine Officers shall dare to do it, upon pain of his *Primi- scrinus*, his forfeiting Three pounds of Gold, and that the Apparitor offending when out of his Employment, should be forced to become a Member of the Body of the *Municipes* or principal Bakers. Nay, if any *Domestick*, or *Pro- testor*, a *Strator* (of whom formerly) *Agens in Rebus*, or *Palatine* of both Offi- ces should do it, when dismissed, he should pay a pound of Gold; and for as much as the *Adjutores* of the *Palatine* Offices, the *Numerarii*, or *Achnarii* of the two Treasurers were to see to those things, he Condemns them in as much; if this Law through their neglect shall be broken. Shortly after he obliged the *Curiales* of Cities and Boroughs, by declaring that none should escape their services by bating himself to his House, that is, by Hiring his Grounds, being Stewards of his *Res privata*, or his Husbandmen; but that such should be drawn back, yet so as with Indemnity to his own private Estate, if any thing was owing it by the *Curialis*. But whereas out of the Body of these *Curiales* were wont to be Created those they called *Procuratores Metallorum*, who overflow the Mines; when about this time the *Gruthingi* invaded *Thrace*; and some thereof had spread into the neighbouring Countries, those *Procuratores* (whose Work lay in *Macedonia*, the *Mediterranean*, *Dacia*, *Mæsia* or *Dardania*) thence took occasion to pretend Fear, deserted their Charges, and endeavoured to compass honourable Employments. "Those *Valentinian* orders *Eusebium* to force back to their Charge, and not suffer them to obtain new Dignities, till they have filled up the term of their Procuration.

38. In the CCCLXXXVII Year of our Lord, *Valentinian Augustus* the Third time, and *Fl. Eutropius* were Consuls, it being the Twelfth of *Valentinian*, and the Fifteenth Indiction. *Cynegius* still remained *Præfidi Prætorio* under *Theodosius*, and *Eusebium* under *Valentinian*; who continued this year at *Milan* till the latter end of September; and *Theodosius* made his Abode at *Constantinople*, till they both 3. & E. removed to *Theffalonica*, upon such occasion as we shall discover in due time and place. Now we find *Valentinian's* Laws first upon the File, and he begins with a continuation of the Privileges granted by him and his Father, to the Physi- cians of the City of *Rome*; as to the Immunities of whom, we have already spoken from the Edicts of former Emperors. "But in case any thing had been acted contrary to those Laws made by them two, he commands *Præfidi*, who had succeeded *Salustius* in the Præfectship of the City, that it be rescinded, and the Laws made upon Reference or Relation of the Senate to the Emperors, shall be strictly observed. For he had taken notice that contrary thereto, some Persons had procured some surreptitious Rescripts in their own favour, by the mediation of the great ones at Court. His Fathers Ordination was, that for supplying of Places, the Seniors in the Art should be Judges of the Persons, after they had examined them; and they should succeed as they came, according to their time of Admission; but by some means or other, one was lately crept in by Virtue of a Rescript or Mandate, which dispensed both with his Examination, and also Seniority; putting him into the place of him, to whom he succeeded. This may very well be supposed to be the Cause, for the very same happened Three years before, when *Symmachus* was *Præfidi* of the City; and therefore he made Relation to this very Emperor himself to this purpose. "As I reverence your Sanctions, so I highly esteem the most wholesome Laws made by your Father; who amongst other things he Ordained for the publick good gave to Professors of the Art of Medicine, Order of Succession, in case a Room was vacated by the Death of any of their Number: By this Law it is required that the first or chief of the Science be Judges of the Skill of such as are newly to be admitted; and this, they say, hath been ever since observed. But now there is one *John* (*Vir Perfidissimus* he calls him) who pretends not to the place your Fathers Edict gave him, but one next to the top, being furnished with the Privilege of the *Palatine Militia* (that is, has been *Archiatr* in the Palace) and further by a special Rescript, whereby he procured the place in re- version of *Epistetus* then alive. Now, for as much as Law and Custom both did require that the Principal Physicians should be Judges in the Point; the whole Colledge was called together to give their Opinions of whom the most considerable, being on one side moved with a Veneration of the Law, and on the other, with reverence to the new Privilege, would not dare to speak their minds, but aligned to *John* that place empty which he should have had."

Ccc

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386.L. 114. de De-
curion. Cod.
Th. Dist. 11.
Cod. Juf. Ind.
tit. Dist. ad
Androm. 8. Kal.
Jan.L. 4. Cod. Juf.
de Metallum
Ind. lib. 11.
tit. 6.A.D.
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L. 13. de Me-
dicis. Cod.
Th. Dist. 11.
Kcl. Fiv.
Indict. ad
Præfidi. Cod.
P. Abh. Cod.
Juf.Epist. 40. tit.
10.

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his Statues, as *Libanius* the Sophist relates. But *Zosimus* must still write in his own way; for after the sad story told of *Gerontius* he adds, that Matters going so wretchedly in the Reign of *Theodosius*; and no excellent Action or what tended to Virtue, being encouraged; but every thing conducing to Effeminateness and Luxury increasing by whole Ells, as the Proverb then went; the Citizens of *Antioch*, that great City of *Syria*, not enduring that multiplication of Tributes, which every day was contrived by the Exactors, fell into tumult, defaced both his Statues and those of the Emperors, and cast out Speeches, not untrue or improper for the state of Affairs, but suting the Liberty and Urbanity of Speech which was familiar to them. The Emperor herat being angry, threatened to punish this Offence, according to his desert; which the *Decuriones* of the City understanding, sent their Messengers to him to excuse what had been committed by the Multitude. They employed on this Errand *Libanius* the Sophist, famous for the Books he left behind him, and *Hilarius*, a Person renowned both for the lustre of his Family and his excellency in all sorts of Learning. And the Sophist in an Oration had before the Emperor and Senate, so much prevailed, that the Prince changed his Resolution, and ceasing from all Anger with the City, enjoined him another Speech concerning this Reconciliation; moreover out of Respect to the great Virtue of *Hilarius* he preferred him to the Government of all *Palestine*. Thus wretched *Zosimus* concerning this matter, who, if he could have done it, would have blamed *Theodosius* for his Clemency; why he aggravates every thing against him, and minceh every offence he had cause to punish he sufficiently understand. But however, we are informed elsewhere, both of the true occasion of this Tumult and the extravagancy thereof, and by what means the Emperor was brought to remit the punishment.

Thereupon the Antiochians fall into a tumult and demolish his Statues.

42. That the occasion of it was the great expence, which according to the Custom, he was to make in caressing the Souldiers, and otherwise, upon his Sons and his own account, *Libanius* testifies; although our Church-Historians, as *Theodoret* and *Sozomen*, ascribe it to the Preparations for War, which some apply to that which formerly followed against *Maximus*. The Statues both of him and his late wife *Placidia* (by several called *Placidia*) they demolished, the being dead the year before; and not only theirs, but those also of his Sons *Arcadius* and *Honorius*, and of his Father *Theodosius* the Elder. To chastise this Insolence and Rebellion were dispatched away, by the angry Emperor (who most took to heart the injury offered to his deceased Wife) *Casarius* the *Magister Officiorum*, and *Ellebius* the *Magister Militum*, of whom we have heard already, and are likely to hear more out of the Laws. In the mean time *John*, who was surnamed *Chrysostom*, and then resided in that City, by his Eloquent Orations, fitted to that great danger which then impended, moved the People that committed the Offence, to a great sense of their Guilt, and Punishment. The first he made was seven days after the commission of the fault, which he so much exaggerated, as that his drift was to shew that the Hainousness of it could not be exprest. In order to this, he insisted both on the *Necessity* and the *Immunity* of the thing. Nothing, he said, had been formerly than that their City more venerable; and now at present nothing was rendred more miserable. The Inhabitants thereof had been as composed and gentle, formerly, as an Horse tame and used to the Hand, that would meet those that made much of him; but now all on a suddain it kicked and spurned, and had done such mischief, as it was not any way fit to speak. He tells them he lamented and mourned, not for the sad Effects of the Emperors Threats, expected by them, but for the madness of the follies committed. For, although the Emperor were not angry, would not at all punish or chastise; yet he demands how they should be able to bear the Ignominy which they had contracted? And so falling into a passion, as he seemeth, he tells them that sorrow interrupts him in what he hath to say. He both laments himself, and excites his Auditors to do the same; and adding that Almighty God permitted this to fall out because they tolerated such as had blasphemed him, he exhorts them to Repentance in many words.

43. The Holy time of *Lent* now was come, wherein the *Antiochians* flocked to Church, having no other comfort but what there was afforded them: and therein *Chrysostom* Preached constantly to them, being exceedingly touched with a sense of their condition, whom, according to his Place and Calling, he earnestly exhorted to Repentance. The Homilies are still extant; and in them sufficiently appears what Eloquence can do when joyned with Necessity. But the Judges in Commission

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He sends Officers to punish the mischief.

Whom certain Christian Eremites restrain.

The miserable Estate of the City during the four days of proceedings.

miffion for trial and punishment of the Offenders are now arrived at *Antioch*, which first they degrade from the honour of being the *Metropolis* of *Syria*, and then they shut up all the publick places; as the Baths, Theatres, Forums and others. *Laudicea* is made what Noble *Antioch* formerly had been; and the most eminent of them that were known or suspected guilty are apprehended and sent to Prison, to whom Tortures are presented, a sufficient Guard being in the mean time bestowed up and down the City, to prevent any Rising of the Inhabitants. The Judges prepare severe Inquisitions, and the Estates of those that are most suspected are seized, the Tables of Proscription being fastned upon their Doors. A great part of the Citizens, after the commission of the Fact, being aware of what would follow, when they heard that Judges, and an Army would be sent down, withdrew themselves; of such as remained, some were sent to Prison, and the rest expected hourly the Officers to be at their Gates, having no other Consolation than their Devotions and the good effects of *Chrysostom* his Sermons. The Noise hereof could not but be strong and fly far and wide; and to the Mountains it came, where many Christians then lived an *Eremetical* life, who no sooner heard what Destruction hung over the Heads of the Citizens, but hasted thither, applied themselves presently to the Judges, and by their importunate Arguments drawn from Christian Piety and Mercy, prevailed with them to repite all farther Proceedings, till such time as a Melage might be sent to the Emperor. For procurement hereof they adventured their lives, and for four days together watched the Gates of the Court, to prevent the execution of condemned Persons, as *Chrysostom* affirms, who upbraided the Philosphers of *Antioch* in this manner: Where are they now that wear the *Pallium*, and stretch out their long Beards, with their Staves in their Hands? These Philosphers of the *Gentiles*, these *Cynical* Mithchiefs, more miserable than Doggs under the Table, and doing all things for the sake of their Bellies. They all then forsook the City, all ran away, and hid themselves in holes: they only, who by their works shew forth true Philosophy, as if there had been no danger at all, appeared unconcerned in the *Forum*. Those that lived in the City betook themselves to Mountains and Holes; and *Hermits* living in Mountains came down as Inhabitants, in this dreadful time, into the City.

44. But how lamentable the Face of things was in *Antioch* these four days, wherein the Judges sat and examined the matter before they were prevailed with to stop their proceedings, the same Person, who was an eye-witnes, puts his Auditors in mind afterward, to make them sensible of their Deliverance. He tells them "That when the greatest part of the Citizens out of fear was run away and had hid themselves in Caves and Holes, the Houses were without Women, and in the *Forum* were no men to be seen: possibly two or three in the middle thereof, and like nothing so much as walking Ghosts. Going then to the Hall of Justice, to see what would be the Issue, and seeing the remainder of the Citizens standing at the Gates, he most admired, that though a multitude thither had flocked, there was as profound a silence as if no body had been present, one looking at another, but no man daring to ask him that stood next him, or to hear from him what the News was. For every one suspected his Neighbour, when they perceived many taken sodaynly out of the Crowd and carried in, when no such thing was once thought of. But all of them together looked up to Heaven, and in silence stretched out their Hands thither, expecting deliverance from above, and beseeching God to stand by those that were to be tried, and to soften the Hearts of the Judges to the producing of some milder sentence. Now being got into the Hall, a more terrible Sight presented it self, viz. of Souldiers every way armed, so as to keep peace and order, while the Judges did their work. Now because the Wives, the Mothers and Children of those that were condemned stood at the Gates; that no noise nor disturbance might arise, when they saw their Relations led to Execution, they caused them to be removed all away. But the most sad Spectacle was, that of the Mother and Sister of one of the Prisoners who crept through the Crowd of Souldiers, and lay prostrate on the Earth at the Feet of the Judges, where hearing nothing but the Noise of the Executioners, the sound of the Blows they gave, the mourning of those that indured them, and the dreadful Sentences of the Judges themselves, they seemed to indure greater Torments than they who underwent the Punishment, being chiefly concerned lest these that were tortured, by extremity of pain should be driven to accuse their dearest Relations. The Relator of these Passages

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ges declares, that, he seeing those who at home had their Maids and Eunuchs to attend them, and nothing wanting to their Ease or Pleasure, now lye upon the bare ground at the feet of the Company, and hearing them with all the expressions of sorrow they could utter, begging those present that they would intercede with the Judges, he could not but break out into that expression of *Solomon's Vanity of Vanities, all is Vanity*, and it put him into a profitable Fit of acting the true and Christian Philosopher in other Meditations suitable to the present occasion.

45. These that now were arraigned were the Principal of all the City; and joyful they would have been, if they had brought them word that they might redeem their lives, by parting with whatsoever else they had, even liberty. The day being over, and the issue of the Trial expected, all persons were in greater expectation and anxiety, and prayed that the matter might be put off and referred for the cognisance of the Emperor himself, from whom they hoped for some easy Sentence: and now every where were plenty of Prayers and Tears to be observed of such as, touched with a love to their Country, desired of Almighty God that he would spare the Remainers of the City, and not suffer it quite to be rooted out. In the mean time the Judges were moved with none of these things, intent only upon that for which they came, and drove on Foot and in Chains through the *Forum* into Prison those who a while ago had Horses enough of their own they kept at home, and needed not to have walkt, besides multitude of Servants to attend them: their Goods were seized, Bills of Proscription set upon their Doors, and their Wives and Children constrained to seek for Lodging they knew not where, for every one was afraid to receive them. And yet they seemed pretty well satisfied in parting with their Estates, and the deplorable condition to which they were reduced, in that they still enjoyed their lives, which they expected also sodainly to part with. But see, when nothing but death and slaughter ran in their minds, sodainly they were surprized with exceeding Joy; when the Judges relented that the matter should be first reported to the Emperor. Not only the Monks but the Clergy then in the City, laboured abundantly in this work; one relolving at first to go with his life in his hand to the Court, and others beseeching, intreating and falling at the Feet of the Judges till they had procured a Reprieve, then kissing their Hands and their Feet to thank and keep them in the same humour. He that went to Court to intercede, was *Flavianus*, Bishop of the place, who foreseeing the Danger undertook the Employment shortly after the Fact was committed, and in his way met with the Commissioners that were sent to examine and chastise it. Being come to the Palace, as *Chrysostom* describes him, and was suitable to the trouble of mind he underwent, he stood at a distance from the Emperor, in a silent and weeping posture, hanging down the Head, and not daring to look up, as if he had been the man that committed the Crime; and that with this Design, that he might first move *Theodosius* to compassion, and that done, then begin his Defence. For guilty Persons can only be allowed to be silent, and say nothing in Excuse for what is done.

46. The Emperor at length espied him in this posture, and came to him much moved to see him in so sad a plight; and though he knew his errand, gave him not one angry word, never upbraided him with the Sawciness and Rebellion of those for whom he came to intercede; but began a grave Expostulation, wherein he related how kind he had been to the City since his first coming to the Government, and then demanded if he deserved such a requital, and what ill turn it was he had done them, for which they had designed him such a Reward? Whatever it was they might have revenged it upon the living; but that would not satisfy them, except their Indignation extended it self also to the dead. He ended with a protestation, that he had esteemed *Antioch* above all other Cities; that it was more valuable in his Thoughts than his own Country; that he had desired to see it above all things, and all those that conversed with him were sufficient witnesses of his Vow. At this *Flavianus* fetching a deep sigh, and pouring forth plenty of Tears, replied, that they could not but be sensible how much he had respected their City, and that therefore the greater was their Ingratitude and Guilt; inasmuch that though he burnt or demolished it, and put them all to the Sword, yet he could not inflict a Punishment so great as they deserved; and whatever he could do, this would still remain as their greatest plague, that they had been ingrateful to their Benefactor; and should be condemned as an Instance of Ingratitude, by Posterity. For had their City been broken open by Barbarians,

The Judges resolve that the Punishment shall be referred to the Emperor.

Flavianus the bishop goes to the Emperor.

Who Expostulates about the injury done to him.

Flavianus confesseth the ingratitude of his.

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and the Inhabitants thereof carried away Captive, they could still have been comforted by this consideration, that he being alive, and bearing them to much good Will, would amend what was amiss, and restore the place to as great a Lustre as formerly. But now what hope was remaining, that after such a misfortune such a Deliverance would come, he from whom they were to expect it, being disfigured? To whom now could they betake themselves? what Refuge could be remaining in such a Case? But however, if his Majesty pleased, there would not be wanting a Medicine for this Disease. For amongst private Men great quarrels and fallings out often procure as great Acts of Charity and Friendship. When God had made Man and placed him in his Paradise, the Devil envying his happiness tempted him to disobedience, and thereby cast him from this Station; but God not only not forsook him, but, instead of Paradise, opened Heaven unto us thereby, both demonstrating his own goodness, and insisting on the Devil greater Punishment.

But useful great Arguments to induce him to pardon it.

47. He advised the Emperour herein to imitate his Maker. For the Devils had left no stone untuned, to bring into Disgrace with him, that City which of all others he most loved. He prayed him that though he did punish the Crime, yet that he would not exclude the Citizens from his favour even in Consideration hereof; but, to be revenged upon these their Enemies, rather write *Antioch* amongst the chief of those he respected. If he overthrew or destroyed it, he should do what they aimed at; but if he would remit his displeasure and restore it to his former favour, he would do them the greatest despite imaginable, thereby shewing that they not only profited nothing by their Plot, but every thing happened quite contrary to what they propoised to themselves. And herein he would be just, in shewing Mercy to that City which the Devils envied, because of his Friendship. For if he had not so much loved it, they would not have so much hated it; so that though Strange, yet it was true, that it had undergone this Calamity for his sake. How much more bitter than all Turnings and Subversions were those words he uttered, that he had by this Fact being more affronted than had any of his Predecessors? But he pray'd him out of his Goodness and Wisdom to consider that this Affront that was offered him, would afford him a Crown more Noble, and of greater value than the Diadem he wore. His Diadem indeed was a Token of his Virtue, and of the Liberality of Almighty God. But the Crown woven out of this his Compassion and Mercy, would be his alone, and the reward of his Wisdom. And all the world would more admire him for his Conquest over his Passion, than for the glittering precious stones he wore on his Head; Though they had demolished his Statues, yet if he forgave the Demolishers, and would not take the Revenge of them that he designed, he would have as many Statues Erected him as there were at present, and would be Men in the world. For Posterity would hear of this his Clemency, and for it would both admire and love his Memory. And that what he said was not out of Flattery, but true, and upright dealing, he would show by discovering to him from a passage of former times, that neither Armies nor Arms, Money nor multitudes of Subjects, nor any other thing could render Princes so Illustrious as Clemency, and the Discipline of the Mind, in bringing it into Subjection unto Reason.

48. There's a Story, faith he, suitable to this occasion, of *Constantine* of blessed Memory, his Statue being defaced; for which he was vehemently moved by some Flatterers to take Revenge. As a Motive to it, they told him, that his Face was grievously battered; at which words, he felt his Face with his Hand and smiling replied, that he could feel no wound he had received, but that his Face and Head were sound and unbroken. This put the Flatterers to silence, but the Saying he used hath since that been ever spoken of, neither will it hastily be forgotten. Now was not this Conquest more noble than the many Trophies he rected? That Prince built many Cities, and was Conquerour of Multitudes of Barbarians, yet of these things nothing is remembered; but this Speech of his, is in every ones Mouth, which by all Posterity will be recorded. Now if for it he obtained so great Fame amongst Men, how shall Almighty God, the bountiful rewarder of all good works, Crown his Clemency? But what need is there, faith he, that I should instance in *Constantine* or any others, when the Case requires, that I put you in mind of your own good Deeds? Call to mind what formerly you have done; how in this Fast of Lent before *Easter*, you sent out your Letters through the world, whereby was enjoined, that Prisoners should be pardoned, and set at Liberty; and this not sufficiently expressing your humanity, you used these words, in the said

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Letters: *I wish I could restore those already dead to Life.* Remember these words; for now you have your wish for opportunity of calling the Dead to Life again; the Citizens of *Antioch* being already dead before Condemned, the City lying now upon the Brink of the Grave; therefore now restore it, as you may do without money, without Charge, without expence either of time or Labour. One word from your Mouth will do it; and the poor Town will acknowledge it self more indebted to you than it's Founder, and that with Reason. For he only gave a beginning to it and so desisted; but you will restore to its grandure a great and mighty City destroyed and brought to as bad as nothing, after a great time of tranquillity and Repose. It would have been no such great exploit, if being taken by the Enemy, you had refused it out of their hands, as now it will be generous to pardon it. For many Princes have done as much as that can amount to; but this will be your Achievement alone, and work beyond expectation. It's a thing so far distant from wonder, that it's practised every day, that Princes do good unto their Subjects; but that one who had suffered such Affronts should put them up and forget them, this exceeds the strength of humane Nature. Consider that now as to the matter in hand, you do not only consult about the state of one City, but concerning your own glory, nay of Christianity it self. For now the Eyes of *Jews and Greeks, and Barbarians*, who have also been acquainted with what hath happened, are upon you, and expect what Sentence you will pass upon the Offenders. If it be mild and gentle, all will commend it, praise God for it, and say; *Of what great power is Christian Religion, which is able to restrain a Man that has no equal upon Earth, who has power to punish and destroy at his pleasure, and hath taught him such Philosophy as no private person would practise the like. Certainly great is the God of Christians, who of men makes Angels, and such as are above all natural Necessities.*

49. Neither let that vain and groundless Fear possess you, into which some perhaps would have you cast, as if sparing this City would make others confident and refractory, and your Government to sit too uneasy upon your shoulders. Indeed had you been in no Capacity to punish, and that these Rioters had contended and got the better of you, then might you have entertained such a Suspicion. But for as much as they are astonished, already half dead, in me their Deputy lye now prostrate at your Feet, expect nothing but destruction, and place all their Refuge in Almighty God, whom they cease not continually to invoke to prosper my Journey; in a word behave themselves no otherwise than those that are at the point of Death, how causeless and superfluous is this fear? Had they presently been ordered to be put to death, they had not suffered so much as now they endure, living so many days in Fear and Tremblings, when Night comes, they expect never more to see the Day, and when Day comes, they do not hope to reach the Evening. Many by seeking to escape the Danger in the Mountains, have fallen into the Jaws of wilde Beasts; not only Men, but little Children and Women, both Beautiful and well born, lye lurking in Caves and Dens, much more proper for other sorts of Animals. A new sort of Captivity hath seized the City. The Buildings and the Walls do stand, and yet they suffer more than if Fire had destroyed their Houses. Though there be no Enemy, no Barbarians appearing, yet they are more dispersed than those that shun Captivity, and worse disposed of than such as are taken Prisoners. If a Leaf of a Tree do but wag, they are thereby scared and terrified all the Day: Prolong not therefore their Miseries, but give them some time to take Breath. It's ealie to awe and afright, but to procure ones self Friends and Lovers, such as will be quiet, obedient and heartily pray for ones prosperity, it's very difficult. This is the way to effect it. You might be at infinite expence, and raise innumerable Armies, and yet by all your Endeavours not be able to purchase or procure so much hearty affection, as by this Course, both from them that you oblige, and others that shall hear how you have obliged them. And if you have such Returns from Men, how much will God himself reward you, not only for what you do at present; but as this Example will operate in future Ages? For if such a Rior as this shall happen (which God forbid) and those that are injured, shall give way to their Passion and Revenge, how will they Blush and be confounded, when they reflect upon this Act of Self-denial? Herby you will make your self an Instructor to Posterity, and will herein excel them, though they arrive at the highest pitch of Philosophy. For it's one thing first to begin and set such a Copy; and another, only to imitate or write after it.

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50. Whosoever therefore for the time to come, shall give any Instances of Clemency and good Nature, you will be partaker with them of the Reward: And for the present none can partake with you. If no such person there shall be, yet will all Generations Conspire to reverence your Memory, when they consider how at such time as a great City lying under Guilt, and obnoxious to Punishment, when thereat all Persons were affrighted and astonished; when the greatest Captains, Officers and Judges stood amazed, and out of horror durst not offer one word in its behalf; one poor old Man, God Almighty his Priest, should by his looks and Access move the Emperor to respect, and that the Prince should grant that to this Old man, which he would not yield to any of those about him, out of reverence to the Laws of God. And truly in this point the Citizens have shewn their Duty to you, and how much they honour you, in that they have made me their Messenger, having this Opinion of you, that you Reverence the Priests of God, though all men be subject unto you, and the Priests considered in themselves are mean, and have nothing to recommend them. But I pretend not only to come from them, but am sent by the Common Lord of all Messengers (Angels) to declare thus much to your most mild and gentle Soul, that if you forgive men their Trespasses, then will your Heavenly Father forgive you yours. Remember then that day wherein we shall give an account of our Actions. Consider with your self, that by this Act of Charity you will cover a multitude of Sins. Other Messengers bring Gold and Silver, and other Gifts with them: I only have brought with me the Holy Scriptures, pretend to make no other Presents, but therewith beseech you to imitate your own Lord and Master, who being every day injured by us yet ceaseth not to give us all good things. Do not defeat our Expectations, nor make null our Promises. If so be you will be reconciled, if you will receive the City unto your former grace and favour, and put away your displeasure, I shall then return with great Alacrity and Comfort. But if you preserve your Indignation against it, I will not only not go thither, but renounce it for the time to come; and fix my Habitation at some other place. For I will never own that for my Country or Home, with which you, who are the most merciful and good natur'd of all Men, refuse to be reconciled.

51. *Flavianus* having spoken to this Purpose, it fared with the Emperour as of old time with *Joseph*, whose Eyes were big with Tears; but he restrained himself because of the By-standers. He only spake one word (*Chrysostome* still tells us) but this word was such, as more became and adorned him, than his Diadem; viz. *What great or admirable matter is it, if we who are contumeliously used, forgive those Men who so treat us, we being Men our selves? when the Lord of the world descending from Heaven, made a servant for our sakes, and Crucified by those who received benefit by him, prayed to his Father for his Crucifiers, saying, Forgive them, for they knew not what they do. What a wonderful thing is it then, if we forgive our fellow-Servants?* And that these were not feigned words, the sequel shewed; for the Bishop intending to stay and Celebrate with him the apostolical Feast of *Easter*, he compelled him to haste away and show himself to his People. I know faith he, how disturbed they are now in their minds, and that yet there are many remainders of this Calamity; go and comfort them. If they see once the Pilot they will forget the Tempest. The Bishop desired that he would send his Son; but He willing to show that he was absolutely reconciled, bade them pray, that those obstacles might be removed, these wars extinguished, and he would come himself without fail. Now, faith the Relator, what can be more calm and serene than this Soul? For the time to come, let the *Pagans* be confounded, or rather, not so, but let them be instructed, and leaving their Error, betake themselves to Christianity so fruitful in virtue, being taught our Philosophy by an Emperour and a Bishop. But as for the Emperour, he contented not himself with sending the Bishop away, but when he was gone out of Town, and had crossed the Sea, he sent after him for fear he should loiter, and defraud thereby the City of half of his Joy, by keeping of *Easter* in another place. The Bishop, as some greedy of praise would have done, did not neglect to send away the Joyful News till he himself should bring it, but for that he travelled more slowly, dispatched away one by Post, with Notice of their deliverance, left by reason of the slowness of his Return, their Sorrow should be continued. For he had no Design that he might bring the Tidings, but that the City might take breath again as soon

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soon as might be, and this they improved to all expressions of Joy, kindling " of Lights, and placing Beds before the Houses (as was wont to be practised in " Feasts, when some extraordinary good thing had happened) so that *Antioch* seem- " ed to Celebrate the Feast of a new and late Nativity: And to increase their " Joy, their Bishop with the Pardon came timely enough to Celebrate *Easter* " with them; which *Chrysostome* in another Sermon laboured to make them sensible " of, as a transcendent Favour of Almighty God, in restoring the Head to the " Body, the Pastor to his Flock, the Master to his Scholars, the Captain to his Soldi- " ers, and the Bishop unto his Priests.

52. This is the Relation made by *Chrysostome* concerning the Tumult at *Antioch*, the danger the City was in, and the manner of procuring Pardon and In- demnity; which being his Account he gave to the Citizens presently after the thing happened; and there being opportunity enough of knowing the truth or falsity thereof, and the most material passages being notoriously known; as of the Hermites their coming down, the Messagere undertaken by *Flavianus*; his sending a Post before him with News of the Pardon, and his bringing with him the Act of Grace it self, and the like. No indifferent Person can question the Veracity of that truly golden mouthed Orator, of whom it may justly be said, that where- as some are words without matter; others are matter without words, and words neither words nor matter; he was one of those few who were both matter and words together. This renders unlikely what *Socumen* writes, that *Flavianus* perswaded the Boys that sung at the Emperors Table, to put into their Songs those Sayings which were in the Petitions of the *Antiochians*, and that *Theodosius* thereupon touched with a sense of their misery, ceased any more to be angry with them. But whereas *Baronius* will have *Libanius* to have been dead long before this time, it was because he was unacquainted with his Writings, wherein mention is made of this tumult of the *Antiochians*, particularly two Orations to *Theodosius* upon this occasion. And whereas he placeth it in the same year that *Theodosius* under- took the Expedition against the Usurper *Maximus*; others with more reason fix it in the year preceding, or that whereof we now write. For, first it happened at such time as *Theodosius* resided at *Constantinople*, as several Passages testify; and the year following, he was at *Theffalonica*, as appears by several Laws. Then it hapned after the Conquest of the *Barbarians*, or *Gothings*, or rather when some few Sparks of that Invasion were still remaining, or feared to be still lurking; and after the death of *Flaccilla*; in Winter-time, before *Lent*, which was not utterly expired when the Bishop brought them their Pardon. Indeed that *Theodosius* was now preparing against *Maximus* is very probable, not being ignorant of what Designs the Tyrant had in his Head. For towards the later end of this very year he brake into *Italy*, and fought away *Valentinian*, who fled with *Justina* his Mother, and his Sister *Galla*, to *Theodosius* into *Ilyricum*, and made his Abode at *Theffalonica*, whither *Theodosius* removed to him.

53. For *Maximus* (as *Zosimus* hath it) not thinking he had yet got enough, or that matters had fully succeeded as he thought was suitable to his Worth and Dignity, while he only Reigned over those Nations which had formerly obeyed *Gratian*; resolved if he could, to remove *Valentinian* also out of the way, and get all his share; at least so much of it as he could come by. Overpowered by these thoughts he prepared for passing the *Alps* into *Italy*; but when he perceived that his way must lye over such steep and craggy Hills, and beyond them over Lakes and Meeres, and thereby his March be rendered very flow, with so great Forces as he purposed to take along with him, he cooled in his heat; and took more time to consider of it. *Valentinian* now from *Aquileia* sent his Ambassa- dors to treat of a better grounded and firmer Peace betwixt them, and to the conditions thereof *Maximus* seemed very willing to submit. This so well suc- ceeding, *Valentinian* sent away one *Dominus* a *Syrian*, a Person of very good Note, and one so familiar with him, that he imparted to him his most secret Af- fairs, whom *Maximus* received, and courted to a very high Degree; and after the Delivery of his Message presented him so highly, that he imagined his Master could have no better Friend. Nay, he was at so much pains and Charge to de- ceive him, that he committed part of his Army into his Hands, as for the Empe- rors Use, to be employed by him against the *Barbarians* that infested *Pannonia*; which, as it made *Dominus* depart in a very joyful humour; so by passing the *Alps* the nearest and safest way back into *Italy*, he thereby discovered it to *Ma- ximus*, who expecting the same, and being prepared for a March, followed him

Lih. 4. p. 766.

Maximus
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vading Italy.

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Effects it by
cumis.Valentinian
thereupon
flies to Thef-
salonica.The Embassy
of Ambrose
Bishop of Mi-
lan.Discourse be-
tween him and
Maximus.

with all his Forces, sending some Scouts before him, who should intercept all persons whatsoever that might carry News of his Approach. And this was easily enough effected, for such as passed these precipitous places could not be hid. When therefore he had the way clearly discovered by *Dominus* his passing be- low in the same Tract, both over the Mountainous and Fenny places, there being no Enemy to oppose him, he easily got over into *Italy*, and none inter- posing, led his Army towards *Aquileia*. *Valentinian* with so sudden a thing sur- prised, seemed to cast away all Hope; and his Ministers feared that *Maximus* would get him alive into his power. Therefore he presently took Ship, and Sailed to *Theffalonica*, having with him in his Company his Mother *Justina*; who had been formerly the Wife of *Magnentius*, and after his death being very beau- tiful, Married to the Emperour *Valentinian*; and the took along with her, her Daughter *Galla*. Being arrived at *Theffalonica*, they sent to *Theodosius* to intreat him that now at last he would revenge the insolent Injuries offered to all the Fa- mily of *Valentinian*.

54. Thus much *Zosimus* writes concerning the expedition of *Maximus*, and the care that *Valentinian* and those about him had to prevent that Invasion which they had so much reason to apprehend. But whereas he mentions their sending Ambassadors before *Dominus*, he either knew not, or would not mention the Embassy of *Ambrose* Bishop of *Milan*; whom, though *Justina* an *Arian* in Religi- on had much persecuted and termed a Tyrant, yet now she had recourse to him, knowing what success his first message had, when sent to allay the fury of the Usurper, the same year that he Murdered *Gratian*. He readily undertook the Employment for preventing such mischief as was like to follow, and, as in an Epistle, wherein he gives to the Emperour an Account of his Negotiation, he writes, the day after his Arrival at *Trier*, in order to his Address went to the Palace. There came forth to him an Eunuch and a Gall by Nation, the *Prescripts Cunctili*; who when he demanded Audience, asked him if he had brought any Letters from the Emperour. He told him he had; to which he replied, that he could not be heard but in Confistory. *Ambrose* said, that Priests were not wont to be so received, and that he had something in Charge which he would gladly deliver to his Ma- ster alone: Hereupon he went in to him, but returned with the same answer that his former might be believed to be true. *Ambrose* said, that those of his Function were not wont to be so treated; yet notwithstanding he would con- descend to any thing that should conduce to the discharge of his Trust, to the service of him that sent him, and to the restoring of Brotherly love. *Maximus* hereupon sitting in Confistory, *Ambrose* was introduced; to whom he arose that he might give him the kiss. But he without stepping forward stood amongst the *Confessors*, who had him go up, and *Maximus* himself called to him: But in- stead of going, he asked him why he would offer to kiss him, whom he would not own; for had he owned him for a Person of his Condition, he would not have received him in that place. Hereat saith he, Bishop are you moved? Not, replied he, with the Injury; but with shame, that I stand in a place not proper to my Function; But quoth *Maximus*, in your former Embassy you came into the Confistory. That was not my fault, he returned, but his that sent for me. He asked him why he would then come in; and he replied, that then he came to ask Peace in behalf of an Inferiour; but now of an Equal. Who may he thank for that saith *Maximus*? Almighty God, saith *Ambrose*, who hath preserved to *Valentinian* that Kingdom which he gave him.

55. At length the Tyrant broke out into Choler, and told him he had over- reached him as that fellow *Bauto* did, who under the pretence of serving the In- terest of the Boy, designed to set up for himself, and sent upon him the *Barba- rians*; as it, saith he, I could not bring sufficient Numbers of them into the Field, of whom so many Thousands serve under me, and receive my Pay. But at what time you came to me, and held me back; who was there that could have with- stood me or my Power? *Ambrose* mildly answered, that there was no cause why he should be angry, and desired him to hear what Return he could make. He acknowledged that therefore he was now come, because in his former Embassy when he credited him, he said he was deceived. For, this that he had done in behalf of the young Emperour, he no otherwise could look upon, as but tending to his own Reparation. For, whom saith he, ought Bishops to defend more than the Fatherless? * It being written, Judge the Fatherless, and plead for the Widows; and again, the Judges of Widows and Fathers of Orphans; yet will not I up- braid "

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braided *Valentinian* with what I did for him. To speak the truth, how did I so withstand you, that you could not pass into *Italy*? What Rocks did I cast in your way? What Forces or Armies did I oppose? Or did I stop up the passages in the *Alps* with my Body? I wish I could say so; I would not fear your Accusations, or Reproaches. With what promises did I abuse you, to draw you into a Peace? Did not you send Count *Vitor* to me near unto *Moguntia*, *cum* in *Gall* to ask it? Wherein therefore did *Valentinian* deceive you, whom first you your self asked the question? wherein did *Bauto*, who but served his Prince? Was it because he did not betray his Master? How did I circumvent you, who at my first coming, when you demanded why *Valentinian* did not come to you as a Son to his Father; made Answer, that it was not to be imagined that a Child in the sharp season of winter should travel with his Mother over the *Alps*, and without his Mother it was not fit he should be put upon such a Journey, especially things standing so doubtfully as they did. I told you that we came to treat of Peace, and had no Commission to meddle with his Coming, which therefore I could not engage for: To this you returned, Let us stay then and see what Answer *Vitor* brings, who while I was retained with you, went to *Milan*, and received a denial to what he propounded: they agreed there to treat of Peace not of the Emperours Coming, who by no means was to be removed. I was with you when *Vitor* came back; How then did I put a stop to the Coming of *Valentinian*?

56. The Ambassadors, sent again into *Gall* to declare he should not come found me in that Country; and in my Return, I met with Soldiers of both Parties set to the Custody of the Passages. What Armies of yours did I recall? What Troops did I draw back from *Italy*? or what *Barbarians* did Count *Bauto* send? And what great matter had it been if he had so done, when you threatened the *Roman* Empire with the Auxiliaries of the *Barbarians*, and Troops that came from beyond the Borders, whom the Province maintained; especially he being born in the Parts beyond the *Rhine*? But consider what difference there was betwixt your threatening humour, and the mildness of *Valentinian* the young Emperor. You required, that with an Army of *Barbarians* you might fall into *Italy*. He diverted the *Huns* and *Alans* as they were falling into *Gall*, and drew them back through the Coasts of the *Alamans*. What great matter was it if *Bauto* engaged *Barbarians* against such as themselves? For while you seize upon the *Roman* Forces, and he on both sides is to look to himself the *Juthungi* within the Bowels of the Empire waste *Rhetia*, and therefore against the *Juthungi* the *Huns* was to be expected. Yet because he was troublesome to *Alamania*, and began to indanger *Gall*, he was constrained to quit his Triumphs, that you might have no apprehension of Fear. Compare now the Actions of both together. You are he that caused *Rhetia* to be harassed. And *Valentinian* with his own Gold purchased you Peace and Security. Behold him there that stands at your right Hand, whom *Valentinian*, when he might easily have vented his Sorrow and Indignation upon him, yet sent back to you with respect. He had him then in his own Dominions, and even when the Message of his Brothers death was brought him, restrained himself; neither did he return to you the like; or revenge himself upon him, who was far from being of the same Dignity with his Brother, but stands in the same relation unto you. Be you now Judge your self, betwixt you both. He sent you your Brother back alive: It were to be wished you would restore to him the dead Body of his dear Relation. Why do you deny this to him, who did not deny to send you Succours against himself? But you are afraid that if you send the Body; at the sight thereof the Soldiers may fall into passion: for this you allege. Do you think that him, whom yet living they deserted, they would now defend, when he is slain? Why do you fear him that's dead, whom you slew when you might have preserved him? You say you slew your Enemy. No. He was none of your Enemy; but you were his. He is not now sensible of any Defence to be made for him; make the Case fully your own. If any one should now rise up against your self and usurp; I pray, whether would you call your self his Enemy, or him yours? I am mistaken, if it be not the Usurper that makes War, and the Emperor that defends himself. Do you then refuse to give up the dead body of him you ought not to have slain? Let *Valentinian* the Emperor have the Remains of his Brother, which may abide as Hostages of Peace betwixt him and you, and of your security. How could you pretend that you gave no order to kill him, whom

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whom you forbid to be buried? Will any believe that you did not envy him his life, to whom you grudge the benefit of a Sepulchre?

57. But I will forbear. I hear you complain that those who are with *Valentinian* the Emperor, have rather betaken themselves to the Emperor *Theodosius*, than to you. Could you expect it should happen otherwise, when you fought to get them into your Hands to destroy them, whereas *Theodosius* enriched them with Presents, and preferred them? Hereat, faith he, whom have I killed? *Ambrosius* answered, *Bauto*: and him that was so worthy a Person, so great a Souldier. Was this a just Excuse for putting him death, because he was faithful to his Prince? He replied, I did not command him to be put to death. *Ambrosius* added, but we heard you did; and to this he confessed, that if he had not killed himself he had ordered him to be carried to *Cabilonum*, and there to be burnt alive. This was then the Reason, said the Bishop, why it was believed that you slew him. But who can promise any security to himself, when so valiant a Warrior, so faithful a Souldier, so useful a *Comes* must be put to death? In conclusion, at parting, *Maximian* pretended that he would treat. But afterward when he found that *Ambrosius* abstained from Communion with these Bishops, that had joyined with him, and who had been for putting to death certain Hereticks (*Priscillianists* he means) being incensed by them he commanded him forthwith to be gone. And he very willingly complied with him herein, though most men believed that he could not escape those that would be sent to intrap him; and he began his journey, only sorrowful to find that *Hyginus* an aged Bishop was sent into Exile, when he had nothing at all left him but his miserable life. He took the pains to go to the Officers of the Tyrant, and to intreat for him, that an old man might not be hurried away without any Cloaths or so much as a Pillow to lye on; but while I interceded for him, faith he, I was hurried away my self. This is the Account of mine Embassy. Emperor farewell and secure your self more strongly against a man, who endeavours to cover and conceal an intended War under the specious vizard of a Peace. Thus much *Ambrosius* himself declares concerning what passed betwixt the Tyrant and him, and it's very remarkable for several circumstances, which else never would have been made known.

58. His Advice to *Valentinian* at the close of his Relation was good, if he had had the happiness to follow it; but instead of that, thinking by fair words to persuade him, he sent, it seems, *Dominus* to him, who being deceived by his hypocritical carriage became a Leader or Director of his Forces into *Italy*; and thereupon followed the flight of *Valentinian* and his Relations to *Theffalonica*. Thence when *Theodosius* had received their message, *Zosimus* tells you that he was amazed at the News, began a little to forget his extravagant Luxury, and remit something of his senseless prosecution of Voluptuousness. A Council being held, it was resolved that he and certain of the Senate should remove to *Theffalonica*, which being done, upon a new Consultation it was agreed, that the Villanies of *Maximian* should be punished. For by no means that man was to be spared any longer who had murdered *Gratian*, usurped his Authority, and proceeding in such courses had now deprived his Brother of that Dominion, which had been left him. *Theodosius* with these things was offended; but by reason of his natural Effeminacy, and that Sluggishness which he had all his life-time been guilty of, was slow in his preparations for the War, alleging those mischiefs which are wont to happen in civil Broils, and shewing that whatever the Success should prove, yet the Commonwealth thereby must grievously suffer. He said, that *Maximian* was first to be sent to; and if he could be prevailed with to restore the Empire to *Valentinian*, and embrace Quiet and Repose, then was the Empire to be divided amongst them all, after the ancient manner; but in case he refused, and was governed by his rapacious Appetite, the War was to be prosecuted without delay. And of the Senators none there was that durst move any thing in opposition to what he said. But *Justina*, being an experienced woman in the Affairs of the World, and sagacious enough in what concerned her Interest, knowing sufficiently how *Theodosius* was addicted to love-matters, brought *Galla* her beautiful Daughter before him, and falling at his feet, humbly besought him not to suffer to pass unrevenge the death of *Gratian*, who had conferred the Imperial Dignity upon him, nor suffer her and her Children to lye destitute and forlorn in this sad Condition. With that she produces her Daughter weeping amain and bewailing her fortune. By these Sights *Theodosius* could not but be exceedingly moved; especially at the Beauty of the Girl, and he sufficiently betrayed his inward Thoughts; yet did he defer what

Maximian
commanded him
to be gone.Theodosius re-
moves to Theffalonica.

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Prepares for
War.

what was to be done, and put them off at the present with this Answer, that they should be of good courage. But his love increasing every day more and more toward the Lady, he had a conference with *Justina*, and desired her Daughter in Marriage, *Placidia* or *Flaccilla* (for so the *Romans* called her) his first Wife being already dead. She granted his Request; but upon no other terms, than that he should make War against *Maximus*, revenge the Death of *Gratian*, and restore to *Valentinian* the Empire which had descended to him from his Father. He accepted of the Conditions; thereby obtained *Galla* for his Wife, and set himself all manner of ways to provide for the War.

59. So sailed over this year; and the following, being the CCCLXXXVIII. of our Lord, had for Consuls *Theodosius Augustus* the second time, and *Cynegius*: it was the first *Indiction*, and the thirteenth year of *Valentinian*. *Theodosius* having left his Son *Arcadius* at *Constantinople*, was come (as we said) to *Theffalonica*. Now *Zosimus* further acquaints you, that, being thereto moved by the Woman, he procured the good affections of the Souldiers, by increasing their Pay; and now becoming taught by experience, he so far corrected his former sloth, that he fell upon the practice of some things, which, after his departure, would have great influence into his Affairs. *Cynegius* his *Præfatus Pretorius*, dying in his Journey from *Egypt*, when he considered whom to put in his place, and had thought upon diverse Persons, at length he found a man fit for this Charge, one *Tatianus*, whom he sent for from *Aquileia*, a Person in all respects, of singular virtue: and having ordered him the Emblems of Magistracy, he made his Son *Proculus* also *Pretor* of the City. In this matter *Zosimus* is so extravagant as to commend him, saying, he did well in bestowing these places upon such Persons as would in his Absence sufficiently provide for the good of the Subject. The Command of his Foot he gave to *Proculus*; and that of the Horse to *Timolus*; and when now all things seemed ready for the expedition, a rumour was brought that the *Barbarians*, in conjunction with the *Roman* Legions, by great promises were urged by *Maximus* to revolt. But so timely knowledge he had of it, that they having notice of his Intelligence, betook themselves into the Fens and Lakes in *Macedonia*, and hid themselves in the Fortresses thereof. Yet were some sent to hunt them out, who by one means or other brought them to this matter, set himself for his expedition. Before we bring him from *Theffalonica*, it will not be amiss to relate how the Laws confirm what the general current of Historians affirms concerning his removal to this City. By several Subscriptions we find him there this year in the Months of *March* and *April*, at what time, while his Armies were bringing into Order, he enacted something for reformation of Abuses in Ecclesiastical and Civil matters. He received information of the cruel practices of the greater sort of Citizens of *Alexandria*, who being naturally very prone to raise Seditions and tumults, were also tyrannical towards their Neighbours, if inferiors to them, so as they would often apprehend and even dare to keep them Prisoners without any Authority intervening. Now, for as much as the Right of having a Prison is a Royalty not lightly communicable to other persons, *Theodosius* declares, that whoever for the time to come shall detain any accused person in a private Prison, shall be guilty of no less than the crime of Treason.

60. He committed *Justina*, with her Son and Daughter, to such as should faithfully convey them to *Rome*, being verily persuaded that the *Romans*, who hated *Maximus*, would gladly receive them; resolving himself, through the upper *Pennine* and the *Apennine* Mountains to march for *Aquileia*, and fill up in the secure and headless Enemy. So writes *Zosimus*, and accordingly by certain Records we find him at *Strobe* and *Scampa*, places of *Macedonia*, in the month of *June*. At the latter, he received a complaint how the *Curiales* of several Towns or Mansions in *Bithynia*, had by running away withdrawn themselves from these services, which were due from them to the Courts, particularly those of *Claudiopolis*, *Præstata*, *Tatianum* and *Foris*. "He commands that by Edicts they be cited to return to their several Liberations and Charges: and in case of default, he enjoins *Tatianus*, who by this time had succeeded *Cynegius* in the Prefecture of the East, that out of other fit and convenient Bodies, and especially out of the number of his Officials or Arguants, who had well discharged their Offices, fit Persons should be chosen and put not only into the Places, but also Estates of these *Curiales*, who undergoing their burthens should also, the better to bear them, in joy their Patrimonies, of which the former owners should for ever be deprived."

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being made incapable of returning. Of these places of *Bithynia* the two former, viz. *Claudiopolis* and *Præstata* (formerly known by the name of *Cius*) were Towns; and the two latter, viz. *Tatianum* and *Foris* were *Manfions*, the first having been but a Mutation in the days of *Constantine* and *Constantius*; but afterwards altered to a *Manfion*, as appears by the Itinerary Tables. Hence it sufficiently appears, that there were *Curiales* or *Decuriones*, as we formerly hinted, not only in Cities and Towns but also in the greater *Manfions*, such as this *Tatianum* was: in like manner as in the greater fort of *Manfions* some Bishops had their Seats, as in the Council of *Chalcedon*, mention is made of *Helipidius*, Bishop of the *Manfion*, called *Terminus*. Not this Edict alone being directed to *Tatianus*; but five more concerning this Subject of Corporations; and several Epistles being also written to him by *Libanius*; from all of these it appears, that he was much inclined to favour the common Interests of the *Civitas*.

61. But, to prosecute the Expedition of *Theodosius*, He, as we said, resolved to pass the upper *Pannonia*, and the *Apennines* towards *Aquileia*. *Maximus* as soon as he could understand that *Justina* and her Children designed to cross the *Ionian* Gulf, sent, to intercept her, if possible, *Andragathus* with some Pinnaces, or other light Vessels; who, though he used his utmost Endeavour to send these persons after *Gratian*, yet missed his Purpose, they having got over before his arrival; which perceiving, he strengthened himself with the accession of many Ships, believing *Theodosius* intended to make War by conveying his Forces over the Sea. But he prosecuted his Journey towards *Pannonia* and the Straights of the *Apennines*, till upon *Maximus* his men, when they least of all expected it, and were sufficiently secure as to their condition, as they imagined. For after the Tyrant had seized upon *Aquileia*, not only all *Italy* but *Africa* all fell off to him, *Sigismonus* well observing that our *Gildas* writes how he extended one of his Wings to *Spain* and the other to *Italy*; and setting the Throne of his Dominion at *Trier*, raged with so great madness, that one of the Emperors he expelled from *Rome*, and another out of the World it self. But of all other *Italians*, those of *Bononia* were his time, was still to be seen at the distance of a mile from the City, whereon was this Inscription, *To our great Lord, C. Maximus and Fl. Victor, Pious, Happy, always Augusti, born for the good of the Commonwealth*. Having secured, as he thought, *Italy* and *Africa* he set himself wholly to scrape up moneys for the as right maintenance of what he had so justly got. But hearing of *Theodosius* his preparations, or suspecting fortified *Potasio*, proceeded to the River *Savus*, where he seized upon *Sciscida* and there late down. *Theodosius* having notice that there he had seated himself, halted through *Macedonia*, and camping upon the *Savus*, when he saw a fit opportunity passed the River, and offered him Battle, which he refused not to accept, but came out of the Town. *Theodosius* his men received him so warmly, and fought with such courage, that his Souldiers would not stand before them, but fled, of whom such as ran to *Sciscida*, either filled the Ditches with their dead Bodies, or ran upon the sharp Stakes set upon the Walls, or stopped up with their Carcasses the Gates which they had opened at their breaking forth: as for such of them as the greatness of the River intercepted, they trembling and embracing one another, cast themselves from the Precipices into the water, and there perished; amongst whom was the Standard-bearer of the Expedition, whose body could not be found.

Defeats Maxi-
mus at Sciscida.And his Bro-
ther Maxi-
mus at Sciscida.

62. *Theodosius* having obtained this Victory, removed to *Potasio*, where *Marcellinus* the Brother of *Maximus*, opposed himself against him. He put his men into order of Battle; yet the day being far spent, thought not fit then to set upon him, but in the morning following he gave him Battle, and that with no worse Success than formerly. For, the Enemy was put to flight, such as escaped the Sword, taking into the adjoining Woods, under the coverture of the Night. Many came with their Colours, and casting them and themselves at the Feet of the Emperor begged Pardon, whom he kindly received. But *Maximus* thus twice defeated betook himself to his Heels, and with great speed came to *Aquileia*, whom *Theodosius* followed well nigh with as much haste. *Hemona* the first City at the foot of the *Alps*, as one enters *Italy*, yielded to him; the Inhabitants thereof issuing forth to meet him in a Triumphant manner, for being delivered by his presence from the Siege, which *Maximus* had laid unto them. They came out Dancing, and with Music of several sorts. The Nobility or Chief of the Town appeared before the Gates, the Senators in their Habit, the Flamines in their Municipal Purple, the Priests in their Caps; the Gates were set with Garlands, the Streets

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Follows Max-
imus to Aquileia.

Streets adorned with the choicest Hangings, and the light of the day was increased by the Fires that were kindled, so that *Theodosius* seemed already to triumph, before he had completed the War. But being intent upon this, he followed *Maximus* to close at the Heels, that by a great and sore March, he reached *Aquileia* in one day, and as soon as there arrived laid siege to the City. *Maximus* perceiving how unable he was to endure the shock, despaired of making resistance, and in a manner seemed to quit that power which he had so Tyrannically usurped; which his men perceiving, to provide for themselves before the taking of the place, they laid Hands on him as he was debributing Money amongst them, and being de- spoiled of the Imperial Ornaments, led him bound to *Theodosius*. He, when he saw him, demanded with what confidence he could enter upon the Civil War, to which he answered, that he pretended he had his consent and favour in his Usurpation; for except he had feigned himself advised thereto by him, he could never have drawn the Souldiers to his party. Hereat *Theodosius* was angry, yet did not condemn him to any cruel punishment; but holding down his Head and blushing, on the contrary, uttered words full of mercy towards so horrible an Offender. But when those about him perceived it, they took away *Maximus* out of his sight, and at three miles distance from the City, cut off his Head, towards the later end of *August*; though as to the very day there be some difference amongst the Writers of the story.

Who is de-
ceived up by
his men.

And put to
death.

Zeusius his
malice to *The-
odosius* in this
Story.

The Favour-
able Account
given by *Pa-
catus* the Pa-
negyrist.

63. Such was the deserved end of *Maximus*, even as *Zosimus* observes, who, though he tell the substance of the Story right, yet can let no action of *Theodosius* pass without fixing something to it that may hurt, at least, his Fame and Reputation. Though he can instance in no Act which might denominate him to be debauched, effeminate and sluggish as he makes him, nor could hope, that, his Wars and many Achievements considered, he could make his Reader believe, he was wholly given up to Idleness; yet he will lessen his valiant performances as much as possible; and because the End and the Design gives the stamp to any Moral Action, he would have it believed that not any noble motive provoked him to undertake the War against the Tyrant, not any kindness or compassion towards *Valentinian*; but kindness to his Sister *Galla*, and compassion toward himself; he refusing so desperately inamoured of her, that to allay his passion and quiet his restless Appetite, he condescended to the Expedition, and was content to raise one Civil War to suppress another more intestine, to kindle one flame that he might quench another more destructive to himself. But it happens so unluckily for *Zosimus* his purpose, that *Marcellinus*, a Chronologer of these times placeth the Marriage of *Theodosius* and *Galla* in the preceding year, and all other Historians of this Age attribute it to the goodness of his Nature, and kindness to *Valentinian*, from whom, after he had recovered his Empire, for him he took nothing, but left it intire to him, as at the first. If we may hear what *Pacatus* the Panegyrist saith of this performance, the motive and the manner of it (and why not a Friend as well as an Enemy?) We shall have far other thoughts of the Temper and Disposition of this Prince. He having declared what mischief befell his Country of *Gaul*, from the Cruelty and Rapacity of the Tyrant, adds, "That at length God was pleased to look upon them, and being intent upon the good of the East," to think of their miseries, and to strike this Villain with madness, so that he broke the League, violated the Law of Arms, and feared not to denounce a War. Can I, saith he, imagine it came but by Providence, that he who might have cunningly dissembled under the name of Peace, and by lying quiet might have escaped the punishment of his former wickedness, should erect a second and third Standard of civil robbery, and having passed the *Cottian Alps*, open also the Streights of the *Julian*, and impose upon you, O Emperor, though you were true to the Faith you had given him of pardoning what was past, a necessity of overcoming him? The Commonwealth whose Avenger was now at Hand drove him headlong; and its Lord, who had been openly murdered, now required satisfaction by his punishment. It was not Confidence but Madness, not Rashness, but a kind of Necessity arising from that madness: neither did he provoke you by War, but could not any longer refuse to submit to Justice.

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Justus saith vi-
olently.

64. How could he otherwise, have been so audacious, that, being so sluggish, and fearful of death as he was, he should rush upon the Sword and meet it in the face? He, who when he was even overcome, had not the courage to kill himself? And you, truly, for asserting the Interest of the Commonwealth, and obtaining the victory, needed not but to have come alone to the War. For, if in
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old time, when Lords (he means the *Scythians*) were to fight with their Slaves went against them furnished with no other weapons than Whips in their Hands, and so great was the force and power of Conscience, that those that were armed at all convenient points, were overthrown by them that were naked, and such as offered at first their breasts to wounds, at length subjected their backs to Scourges; why then might not you, merely by showing your self have put an end to the Controversie, without the Legions? Then, after a comparison made betwixt the Nobility and Baseness, the Virtue and Flagitious Wickedness of the Prince and Tyrant; he further tells him, "That though he had such an Adversary to deal with, and came down not so much to fight with an Enemy, as to bring a Rogue to his deserved punishment, yet he had gone as advicably to work, as if he had had to do with some *Perseus*, *Pyrrhus* or *Hannibal* himself. For in the first place he had secured the fidelity of those Kings who lay upon the Eastern Borders, by a new League on both sides confirmed; that, being secure from abroad, he might leave nothing in a dubious posture at home. In the next, he divided his Forces into three parts, the better to make the Enemy sensible of his Danger, and to prevent his flight. In the last, to such Nations of the Barbarians as voluntarily offered their assistance, and vowed to stand by him, he committed the work of fellow-souldiers, thereby to draw them off from the Borders, where they were most suspected; and to procure Supplies for his Army: This Condescension once known, all the *Scythians* flockted out in such Swarms, that he might seem to have enjoyed that Raising of men to the *Barbarians*, which he had remitted to his own subjects. Now did the Enemy of the *Romans* march under the *Roman* Captains and Ensigns, and followed those Standards which formerly he had stood against: Now did the Souldier fill those Garisons of *Pannonia* which he had formerly dismantled. The *Goths*, the *Huns* and *Alans* answered to his Name, stood Sentinel in his Turn, and was afraid to be absent when he was called. From the *Barbarians* themselves now proceeded no tumult, no confusion or plundering; for if Provisions were scant they patiently endured it; and though Corn, through their numbers was rightly judged to be defective, yet by their parsimony they rendered it abundant; requiring no other Wages or Reward, but that they might be esteemed and called *Troops*. How great is that Ambition which proceeds from Virtue. You received a kindness, but such an one, in such a manner, and with such a Design, that you might acknowledge that you had received it.

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65. After many other things spoken ingenuously in a Panegyric way, of which we shall here take no notice, in commending the goodness of *Theodosius* his disposition and the Clemency of his nature, he presseth something that we must needs observe, viz. his so noble using of the Victory. "He denies not but that the effects of his valour might be by the Pencils of Artificers, commended to the eyes of posterity, as, his Passing the tops of the Alps, Swimming over the Rivers, or overthrowing his Enemies in Battle: the description of these Achievements might be effected both by Painters and Statuaries. But in what Air, with what Colours, in what Brass or Gold shall these Lines be drawn, he demands, where, by the Emperor must be described so far a Victor of Victory it self, that together with his Arms he laid aside all displeasure; inasmuch that not after the War, no not after *Maximus* any were punished. For, excepting a few Moors, which, as an Infernal Troop, he now about to dye, had shut up with himself, and two or three which as so many Fencers of this furious Gladiator were slain, to expiate the Offence, Pardon was granted to all others whatsoever, and an Amnesty secured them as it were in a Mothers Lap: the Estates of none were fet to Sale; no man was deprived of his Liberty; no not so much as degraded from any Honour he formerly had enjoyed. Not any mark or distinction was set upon any man, not one reproached or reprehended, suffered any punishment as much as by hearing one unacceptable word. All Persons were restored to their Houses, all to their Wives, and (what is more contenting) all to their Innocence. He bids the Emperor consider what he had procured by this clemency, viz. that he being Conqueror no man esteemed himself conquered. And he tells *Rome*, that the from her seven Hills beheld this, and though high before in her sevenfold munitions, yet at this sight was more elevated by Joy: the which formerly had experimented the furies of *Cynna*, the cruelty of *Marius* after banishment; had felt the felicity of *Sulla* in her own overthrows, and the mercies of *Cesar* to such as were already dead; the that trembled at the noise of every triumph which sounded to civil discords; which, besides the slaughter of Souldiers, that the lost as well on the
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one side as the other, at home had seen the eyes, as it were, of her *Senate* put out, the heads of her *Consuls* fixed on Poles, her *Cato's* constrained to die, her *Cicero's* beheaded and mangled, and had wept, as at all these sights, so to see her *Pompey's* lie unburied; she to whom the fury of her divided Citizens had wrought more injury than the *Carthaginian* at the Gates, or the *Gall* received within the Walls; to whom *Romulus* had been more deadly than the *Allian* Day, *Collins* more direful than *Carne*, having left in her so deep Scars, that she, who ever felt her own valour more heavy upon her than that of others, feared nothing so much as her own self. But she now had seen a Civil War ended with the slaughter of her Enemies, peace to the Soldiers, the recovery of *Italy*, and with her own liberty. In Conclusion, she had seen such a Civil War brought to Conclusion, as to which she might justly decree a triumph. This *Pacatus* uttered, being at *Rome*, whither *Theodosius* went shortly after the Victory, as we shall see anon.

66. To what he saith, in reference to breaking the League and the Law of Nations. We may add what *St. Ambrose* relates concerning the fall of *Maximus* to *Valentinian*, whom he advised not to trust him; for that he concealed but war in a Cover of Peace. And we may also take in what *Socrates* writes, that *Maximus* sent Ambassadors to *Theodosius*; but he neither admitted nor rejected them, and yet grieved to see the Empire of the *Romans* oppressed with Tyranny under the Vizard of an Imperial Title, but at his going to *Thessalonica* neither made Show of being on the one side nor the other: yet gathering a great power of Men together, he hastened to *Milan*, at which City *Maximus* was before arrived. But as *Maximus* broke the League, it cannot be laid to the Charge of *Theodosius*, that he did so with him. For as it must not be denied, that he yielded him the Title of Emperor, and admitted of the Erection of his Statues, so it is to be taken for granted that *Valentinian* the young Prince was comprized in the Agreement, for whose sake *Theodosius* was glad to bear with the Tyrant that he might not, having such Advantages, make Use of them and swallow him up. And yet he could not but be aware of his Ambitious Designs, and discover more of his Temper; and if he, as *Zosimus* says, provided for management of a War against him, the Sequel shewed that his Fears that he would renew his Parricide and Usurpation upon the other Brother; were but too well grounded. For his Calmness and Clemency in using his good Fortune moderately, *St. Ambrose* in a few words, as one observes, comprizeth many things when he saith that the very Daughters of his Enemy he had recalled out of Confinement, and committed to a kinsman of theirs to be maintained; and to his mother had sent money out of his own Purse: moreover at the Intercession of the said Bishop, he had delivered many out of Exile; many out of Prison; and many from the imminent danger of Death. And herein further appears his Christian Abstinence and moderation, that having by destruction of the Tyrant, not only freed *Italy*, which was the portion of *Valentinian*; but moreover recovered *Gall*, *Spain*, and *Brittain*, which he had seized and held ever since the Death of *Gratian*, yet did he not touch these Provinces so as to pretend to any Sovereignty to them by way of Conquest; no nor so much as to divide them betwixt *Valentinian* and himself; but quitted and relinquished them to him, having staid so long in these parts till he could rectify his Interest and reduce all things into their former methods.

How Pacatus is to be understood.

67. But whereas *Pacatus* speaks of *Theodosius* his degrading none for their former Honours, it must not be understood as if he confirmed what ever *Maximus* had pretended to do in the Advancement of any to dignities under himself during his Usurpation; but of such as had in former times been received. For it had been a notable Incouragement to Rebellion and Usurpation, had the Rewards of joining in Treason, granted to his fellow Rebels by the Usurper, been confirmed afterward by the Conquering and lawful Prince. So far was *Theodosius* from transgressing the right Rules of true Government in this kind, that having subdued *Maximus*, on the two and twentieth of *October* he gave out an Edict at *Aquileia*, forbidding that any should dare to assume to himself any Honour, which the Audaciousness of the Tyrant had granted; but that such presumption should be recalled to its former Condition. And because, for partiality, and out of Faction many doublets had been oppressed, as well loyal Subjects ruined, as Traitors preferred, upon such a Turn in the Common-wealth, by another Law dated at *Milan* (whither he removed shortly after) on the tenth of *October*, he commands that all such designed and injurious judgments be revoked, as had been promulgated by him, whom he terms *Infundibilis Tyrannorum*. These Laws concerned

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L. 5. c. 12.

L. 6. de infundibilis Tyrannorum
L. 7. de infundibilis Tyrannorum
Cod. Th.

L. 7. de infundibilis Tyrannorum
tit.

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concerned *Italy* where they were made, and that we may speak to this matter all at once, as he directed them to *Trifolius Prefect of Italy*; so on the fourteenth of *January* following, he inscribed another Constitution to *Constantianus the Prefect of Gall*, whereby he also ordains, that all, who being promoted through the Usurpation of the Tyrant, had received the unlawful Title of any Dignity, shall produce and give in all such Letters or Cédicils. Moreover, all such Sentences and Decrees of those, who never having been Lawful Judges could not justly pronounce, he commands to be abolished and taken from amongst the Records, that their Authority being nulled, none may offer to rely upon them, which time had obliterated with their Author. He excepts only such matters as had been transacted by agreement and Consent of the parties, provided no fraud or Constraint in them appeared. And to these he adds, *Donations*, *Emancipations*, and *Manumissions*, in all which, he saith, it was sufficient to have willed them. But this was after the death of *Victor*, a Boy, the son of *Maximus*, to whom he had given the Title of *Augustus*, and left him at *Trier*, to the Charge and Defence of *Nannienus* and *Quintinus the Magistri Militum*; of whose Carriage in *Gall* during the late Revolutions in *Italy*, something here is to be added.

Motions in Gall during the late Revolutions in Italy.

68. While *Maximus* lay besieged within *Aquileia*, the *Franks* under the leading of *Genobald*, *Marcomere* and *Suno* passed over the *Rhine*, and invaded the lower *Germany*; many persons they slew, and waisting the fertile Country adjoining, struck great terror all to *Colein*, *Nannienus* and *Quintinus*, to whom *Maximus* had committed the Care of the Country, as well as his Son, hearing of their Motions, marched presently with an Army to *Colein*, where they found that such as were loaded with Booty, had repassed the *Rhine*, into their own Country, and the rest were fill in the *Roman* Territories, and had renewed their Depredations. On these Rovers they fell, at a place called *Carbonaria*, and destroyed most of them, and then was it debated betwixt the two Generals, whether they should invade *France*. *Nannienus* was utterly against it, and returned to *Maguntiacum*, but *Quintinus* with his Forces, passed the River at a Castle called *Nivisum*, where Coastling down by the Rivers side he found many Villages and poor stragling Houles void of Inhabitants; for the People pretending Flight, had beaken themselves into more remote Woods and Fens; having stopped up the Passages as they would have it believed, with the trunks of trees. *Quintinus* having burnt all the Houses, kept his Men in Arms all the Night, and then by break of Day, passing into the Wood, wandered about, and intangled himself in the Thickets, and By-ways till Noon, and had opportunity enough to view the several Quarters thereof. But he found them, to his small Contentment, Fortified with strong Hedges and Fences on every side; and therefore was forced to get out into the Champion adjoining to the Woods Endeavouring to do this, the Enemy appeared, though in no great Numbers, on the Boughes or Bodies of Trees joyned together, and as from so many Towers annoyed his Men with showers of Arrows, envenomed with the deadly Juice of Herbs; so that though they did but pierce the Skin without violating any principal part, yet the Wounds proved mortal. The Numbers of the *Franks* increasing so, that the Army was befet with them; it got out into the Plains, and that with great contentment, though the Enemy on design had left them free to their Access. But the Horfe gladly making Use of the Advantage they had of their cleaving, as they imagined, found only a swifter passage out of the World, being swallowed up in the Bogs; where the Bodies of Men and Horfes together, intangled, and sunk one another, by their Struggling. The Foot having ventured far enough to find the place impassable, retired into the Woods in a trembling Posture. The whole Party being thus disordered and defeated, *Heracius* the Tribune of the *Jovians*, and almost all others who had any Command, were Killed; and but few escaped by the obscurity of the Night, and the Assistance that the Woods afforded.

Quintinus receives a Defeat in the Country of the Franks.

After the Son of Maximus slain.

69. But *Maximus* the Tyrant being slain, as we said, *Valentinian* sent *Arbogastes* his *Magister Militum* into *Gall*, for the suppression of *Victor* his Son, and in the rooms of *Nannienus* and *Quintinus*, he put *Carietto* & *Syrus*. The Design was accomplished without any great Contest: For *Victor* in the first Attempt was defeated, taken, and slain. All *Gallia* was recovered to obedience, and *Carietto* and *Syrus*, having nothing else to do, went and showed themselves with their Forces against the *Franks* on this side the *Rhine*. News hereof, *Zosimus* tells

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us, coming to the Ears of *Andragathus*, who Cruised now with his Ships to and again upon the *Ionian* Bay, he knowing he was feverly to be Treated (for his Murdering *Gratian*) would not expect the coming of the Enemy, but punished himself by leaping into the Sea, which he chose to trust, rather than his greatest Adversaries. And this *Historian* further is pleased to add, that *Theodosius* delivered over to *Valentinian* all that Empire which had been held by his Father, which seemed congruous to those good offices he had received from their Family: Such things as were Choice and possessed by the followers of *Maximus* he bestowed amongst his own Men: and permitted *Valentinian* to dispose of the Affairs of *Italy*, *Gall* and other parts of his Empire, his Mother being present and assisting him; supplying also what was defective in him, by reason of his Youth, with such Prudence and Skill, as her Sex afforded her. Then talks he of *Theodosius* his return to *Thessalonica*, as if he presently quitted the Western parts and would not intermeddle in the Settlement of what he had lately recovered; whereas he returned in these parts for three years, after the Overthrow of *Maximus*, or near thereabouts; and employed most of his time in the right Establishment of the Interest of these Quarters.

70. Having had so much occasion to make Use of Arms this year, and thereby to find what Inconvenience lay in the ordinary method of furnishing them, the two Emperours now constantly lying together, concluded of a course of Reformation. And this was to discourage and disown that Custom which for some Reasons in other times had been of force, whereby the *Provincials*, instead of other Meats, were permitted to find Money. The only design of the State was to be furnished with convenient Weapons; but the *Fabricenses* receiving money from the *Provincials*, who were to find Metals for this purpose, falsified themselves with the Ore of such Mines as were no whit proper, but which upon Tryal in the Forge, was wont to fly and break in pieces. *Theodosius* therefore, and *Valentinian*, to prevent such Frauds, Command that for the time to come in all Ages, it be held for a Law, that the Forges be served in *Sperie* and not in *Monney*; and that out of the Noble Veins of the Earth, particularly in such Metal as will readily Melt, and not lye and multiply, like Drops, in the Fire. In like manner, several Emperours Commanded that Tributes should be paid in kind, though sometimes other Princes, reason of State requiring, allowed of the taking of Money. In particular, the Inhabitants of the Mountain *Taurus*, by reason of the Excellency of the Iron which was found in their Territories, were obnoxious to this Collation. Because this Law respects the Metal of Iron, therefore is it directed to *Tatianus* the *Præfatus Prætorio* of the East, the Tribute whereof belonged to his Cognizance; whereas, had it properly related to the Forges, or the Management thereof, it had been directed to the *Magister Officiorum*.

71. The year that next followed, was the CCCLXXXIX of our Lord, and had for Consuls *Fl. Timalius* and *Fl.* (for at this time *Flavianus* was the General *Proconsul*) *Pronotus* for Consuls: it was the fourteenth of *Valentinian* the second, and the second Indiction. *Præfatus Prætorio* of the East *Tatianus* still continued; one *Constantianus* held that Office in *Gall*; and in *Italy* *Trophimus*: *Albinus* was *Præfatus* of *Rome*, and *Procus* the Son of *Tatianus*, of *Constantinople*. After the Defeat of *Maximus*, the two Emperours made their abode at *Milan* till towards the beginning of *June*, where, besides what they Enacted for repealing and nulling things as had been done by the Tyrant, they: thought fit to make other Laws for the good Government of the State, and the promotion of Justice. Though they now resided at *Milan*, yet *Rome* was in their Eye, whither ere long they resolved to go; and very probable it is, that that City had been Faithful and Loyal to *Valentinian*, during the late Usurpation, as far as the Nature of the Times would permit. For, being solicited in behalf of the *Decurie* or certain Colleges or Bodies belonging to it, He (or they) takes occasion to declare, that he will suffer nothing to be lost of any privilege or Indulgence granted to the *Ætternal* City. But will so far maintain all its ancient Privileges as to be ready to grant any new favours; if reason shall require it. In particular therefore, whereas the *Deturiales* of *Rome* were from old time wont to be supplied with two out of each City of the Province, he will for their Defence have the same Orders observed as were granted by himself or Predecessors. And if any one would pretend that the Person was not such, as to whom such privileges did belong, the matter should be tried and decided before the Judge of the *Decuria* himself. As we have formerly said, there were various *Decu-*

A.D.
388.L. 2. de Fabriciis
cod. Tit. lib. 10.
tit. 22. de i. i.
cod. Jeph. tit.
20. 15. Cal.
Nov.A.D.
389.L. 1. de Promotio
Cod.

The Emperours command that Meats for making of Arms be paid in to the Forges in kind.

Valentinian makes a Law in behalf of the *Decuria* of *Rome*.

Sect. 4.

rie in *Rome*, as of the *Librarii*, *Fiscales* and *Censuales*, and so also in the Cities and *Municipia*, as of *Librarii* and *Scribes*, who wrote for such as were in Law, or upon other occasions. But of those of the (principal) Cities of Provinces, we find here, what no where else occurs, and that two were wont, and that of old time, to be sent up to *Rome*, like as the *Senate* and other places of Repute and Trust were Communicated to those of the Provinces, either, that by virtue of this Communion betwixt City and Country, the People and *Senate* of *Rome* might have a just Account of what was done in the Provinces, or that the Provinces, when they came to *Rome* upon Business, might have such as they could resort to; or for both these Reasons; in like manner as the Companies of *Rome* had their peculiar *Defensores*, so had these their Judges in Case any denied one of them to be a *Decurialis*, or would object any thing against the Immunities he enjoyed; but whether this Judg was to determine the matter Solely, or refer to the Court, to the *Præfatus* of the City, or the *Præfatus Prætorio*, to whom the Law is directed, doth not evidently appear. However, had it not been for this Law, we had known nothing of these Particulars.

72. This may be more peculiarly ascribed to *Valentinian*, because directed to the *Præfatus* of *Italy*; and for the like Reason, as well as for others, the next we find made in order of time, or but four days after, we must judg to have been Enacted by *Theodosius*, though mutual assistance (especially in the former) they might contribute each to other. By the ancient Law of the *Romans*, the Emperours might be made Heirs, or have Legacies bequeathed them, as well as private Men, by Codicils or Letters, as well as Testaments. Nay, in some difficult times, Testators were glad, if not forced to do it. But whereas Princes were said to be above the Laws, herein *Theodosius* shewed an extraordinary Example of Humanity and Self-denial, in that he refused the Benefit thereby allowed to other Persons. By a Constitution directed to *Procus* the *Præfatus* of *Constantinople*, he declares that he will not admit any thing left to him, or his near Relations, by any Codicils or Epistles, though he will have the Right and Custom to continue amongst private Persons; but leaves it to fall as it would have done to the Children or next Kindred of the Deceased. By his Relations, he doth not mean his Slaves or Freedmen, nor his Friends as some have imagined, but his wife *Galla*, (not *Flaccilla* as *Gothofred* intanceth by mistake, she being now dead) his Daughters *Galla* and *Placidia*, and his two Sons *Arcadius* and *Honorius*. Now the Reason why he rejects any thing thus left by *Fideicommissary* Codicils or Letters, is because those Instruments were less solemn, than were Testaments, and therefore Fraud might more easily be committed, It's true, the matter might be discovered by Torture, yet however, because they were subject to Fraud, therefore he disclaims all Benefit that might from them accrue to him or his. But where the Solemnity was greater and the certainty more clear, as in Testaments, there he rejects not what should freely be given him by any. However, the goodness of *Theodosius* was so remarkable herein, that *Symmachus*, of whom we have made so much mention, extols it to admiration, in an Epistle written to *Flavianus* his Brother, as he calls him, sometime *Præfatus Prætorio* of *Illyricum* and *Italy*.

73. Having with my pen, faith he, ran through the Commendations which our Lord *Theodosius* deserves, both for his Government in War and Peace, (for I confess I have rather touched at them, than handled any particular according to its Importance) to the matters relating to Peace, I have added his Laws, which, as I know they have taken off all Admiration from such as were Enacted before his time, I do not think that they have left place for the like Reputation to any that shall be made after them. Especially this new Sanction concerning *Fideicommissa*, and the Profits arising from *Codicills* being for ever rejected by the best of Princes, so much in Renown exceeds the lustre of what has been done before, as it is more Noble and Excellent for a Governour to lay a restraint upon himself than other persons. And it's my Wish, that the Avarice of private men may understand the meaning of the Law-maker, and from his Laws find good Manners to themselves. For it's not to be doubted, what he would have other Persons to do, who first of all abhorred those profits which he knew to be suspected. But I am afraid, that the Covetousness of bad men, will think this profit that he has rejected to be for their own turn, and the Cause of Innocent Persons will be rendered worse; if these only may have occasion of fraud, who neither from Law nor Shame have any Restraint upon them. Therefore seeing that the Emperours themselves are more tied up, let their condition work as a Legal Medicine upon the

A.D.
389.L. 2. de Testam.
Cod. Tit. lib. 4.
tit. 4. de
10. Rel. Fidei.
Abst. 4. Cod.
Jeph. postulat
fidei parte.

L. 2. de Ep. 13.

Theodosius refuses to take any thing given him in Codicills.

His Law in general, especially this extolled by *Symmachus*.L. 3. de Divulsi
Cod. Tit. lib. 10.
tit. 14. tit. 1.
Dat. ad Triflu-
vium Pl. P.
14. Rel. Fidei.
Eius pars max-
ime abst. 4.
cod. Jeph.

712

Sect. 4.

the depraved Desires of private men. Ancient Constitutions, the vigour whereof "fell with the Makers of them, are become of no efficacy with guilty persons. "Therefore is so much severity to be added as may fuit and ballance the Increase of "Naughtiness. Otherwise if the greater Number receive no amendment, in vain "doth the Emperour alone, whose Goodness and Integrity was always remarkable; "bind himself to what is just by severe Decrees. Here *Symmachus* concerns him- "self for having the Subject to imitate the Goodness of the Prince. For though "he binds himself by this Law, yet he leaves it free to others to receive any Enolument left them by these *Codicills* or *Letters*; yet so, that if there be any Contro- "versie moved concerning the truth and validity of the Writing, whether the Action "be Criminal or Civil, (for either it might be) the Proof of the truth thereof shall "lie upon him that produceth it, or is to receive benefit by it. Otherwise in Law the "presumption lies for the Writing, and he that Sues isto prove the Forgery; and if, "in other Cases, the Defendant be put to prove in a Suit of Forgery, yet is he not in "the first place as here, or alone, to do it. But thus we see some Excellent Princes "have not only been pleased to equal themselves with their meanest Subjects, as to Pri- "vilege in Law, but even restrain and put stricter Obligations upon their own Per- "sons, and their nearest Relations. In former times they challenged nothing due "from an Imperfect Testament, nor by any naked Promise or rash Offer, no more "than private Persons. *Constantine* affirms the Causes of private men to be of more "Consequence to him than the Defence of the Treasury; something suitable to what "*Pliny* affirms, *The Cause of the Exchequer never to be had but under a good Prince*. And *Capitolinus* writes of *Marcus Antoninus*. That he never favoured it in matters "relating to Profit. Moreover *Augustus*, *Tiberius* and *Adrian* refused to take any "thing by virtue of the Testament of an unknown Person. However, in such Mat- "ters as these relating to good Government, the Prince is to consult his Prudence as "well as his goodness of Nature; for without Treasure can be no discharge of pub- "lick Service. Where he may do it, it's his Duty to be Indulgent, the Safety and "comfort of good People being the End of Government; but necessary Expenses "must be defrayed by lawful Means. Therefore we cannot but in Charity think "*Julianus* governed by this sentiment, and urged by the like occasions, when he "suppressed this Law, and approved and preferred such former as allowed of the "Prince his receiving Benefit by *Codicills*, and *Epistles*.

74. *Valentinian* not long after concerned himself in Estates, not left by *Will*, *Codi- "cill* or *Epistle*; but such as should descend from an *Intestate*. By the ancient Law "of the *Romans*, as well that of the twelve Tables as *Prætorian*, in Succession no regard "at all was had of the *Cognati*. For the *Decemviri*, and those that came after them, "being concerned for the Dignity and Propagation of *Families*, designed the Suc- "cession to belong to those alone who were of the same Stock and House. Therefore "Grandsons (as we call them) or Nephews by the Daughter, being not of the same "Stock or Family, but Branches issuing from another Root, though by a Cien in- "grafted, could not succeed their Mothers Father, but only their Father, or Grand- "father, by the Fathers side, or other Ancestor; in whose power they were till Ema- "ncipated. For the Daughter propagating only the Family into which the married, and "not that of her Father, her Children were excluded not only by the Sons and Daugh- "ters of the Deceased, but also by those they called *Agnati*, which were Kindred by "Persons of the Masculine Sex, as born together or Connate with the Father. Such "were Sons of the same Father, their Uncle, or the Fathers Brother, the Sons of Bro- "thers, and the like. After this manner was the Right of Representation introduced, "the Law admitting Nephews by the Son, with their Uncles and Aunts, to Succession, "for so much as their Father himself should have been admitted to. But *Valen- "tinian* conceiving the Nephews by Daughters to have too hard measure in this Point, "now ordained, "That in case a Man died and left Sons, and Nephews by a Daugh- "ter, these Nephews, if the was dead, should receive two Parts of three of so "much as the should have received amongst her Brothers; and the third should fall "to the Brothers and Sisters of her that was dead, being the Uncles and Aunts of the "Nephews. But in case one so dying left no Sons, but only Nephews by a "Daughter, and such *Agnati*, or Kindred, as we formerly mentioned, which by the "Old Law were preferred before such Nephews; he ordains; That only a fourth "part of the Inheritance shall go to such *Agnati*, and the Nephews obtain the rest. "And what he thus Ordains concerning the Estate of a Grandfather by the Mother, "he extends to that of a Grandmother either by the Fathers or the Mothers side; "there being the same Equity and Reason, as he saith, except such Nephews had been "

A.D.
389.

Valentinian
concerns him-
self for the
Succession of
Grandchild-
ren by
Daughters.

4. Cod. Th.
de legitimis
hereditat.
Dat. 9. Kelt.
Mart. Mediol.
et L. 9. Cod.
Th. de jure
legitimis filie
a Trivenio
a mortuatis.
a Fili jure
pater de he-
reditat. que ab
hereditate. Cod.
15. et 16.

Sect. 4.

been disinherited by their Mother; for in such Case being cut off from Succession "to their Mother, they were also cut off from any benefit they could have of Re- "presentation. But further, as by the Laws of the *Romans*, If Parents made their "Wills, and either passed by their Children, or disinherited them without a Cause, "notwithstanding the Will, yet such Children had their Action at Law, whereby "they might recover their legal share of the Inheritance; so in case these Nephews "were passed by, by any of these their Relations, Grandfathers, or Grandmothers, "in the same manner, he leaves them in the same way to prosecute their just "Claims to their shares in their Estates, which they might recover by way of Repre- "sentation of their Mother: But if she was either disinherited by her Parents "justly, or they, her Children by her, then did the Right of Representation fail; "and to nothing could they Succeed. Such Provision did *Valentinian* make for "those for whom the Ancient Law did nothing provide, which though good in com- "parison of their former Condition, yet still seemed very scant, part of what fell to "the Mothers share being yet appropriated to others. Therefore in case the Grand- "father designed them their entire share, there was necessity for *Codicills* or a *Testa- "ment* to be drawn, to convey the Estate to them in a certain Forme. And *Justinian* "afterward more enlarged the Right of these Nephews by the Daughter; first, by ta- "king away all the Right of the *Agnati* their coming in for a tenth part; and after- "wards by cutting off the Uncles and Aunts from their Share of what formerly they "recovered of their Sisters part. Thus was that great Concern, which the Old Civil "Law had for Families regulated and lessened by the Conferences of later Princes. "But after the Laws of the *Lombards*, or those we call *Fendatory* came to be in force "in the West; few are so littleighted but may take notice, how Lands have been li- "mited most commonly to the Eldest Son; or so as the Services due to the Lords might "best be performed.

75. But by this time, not only the Noise of the Destruction of the Tyrant "*Maximian*; but also of the Defeat and Death of his Son *Vitor*, and the intire fi- "nishing of that Civil Dissention, might arrive in the *Eastern* Parts of the Empire. "Therefore *Theodosius*, to prevent such Abuses as we formerly mentioned to have hap- "pened upon the coming of such Tidings, by an Edict sent to *Tatianus*, renewed the Law "he had formerly made, whereby he decreed, That nothing should be Exacted from "the *Provincials* in the way of Congratulation. By reason of Senators their too "highly valuing themselves, and esteeming their Order too great to receive any As- "sistance or Protection from Inferior Persons, it came to be a Question amongst them "at this time, whether to Pupils, and such as were Adult, though under Age, of this "Senatorian Rank, Tutors and Curators might be assigned from amongst those of In- "ferior Condition. *Theodosius* was Consulted and Concerned in the Matter, so far as "to publish a Constitution for Determination and Settlement of it. "He Ordains for "quieting of all Antinomies, That the *Præfict* of *Constantinople* (for to *Præfatus* "the Son of *Tatian*, the Edict is directed) take to him Ten Senators for his Assis- "tants, together with their *Pretor* called *Pretor Talaris*, (to whom belonged these "Matters of *Guardianship*) and with them, their advice and Consent concerning ap- "point Tutors and Curators to them as he should see cause. Indeed of Old Time it "belonged to the *Præfict* of the City to assign these Guardians; but as in Old Time it "in certain Cases the *Pretor* at *Rome* had Ten Men to assist him; and as the *Pretor*, "assisted by the major part of the *Tribuni Plebis*, who were Ten in Number, for- "merly discharged this Trust, so *Theodosius* thinks fit to add these Ten Persons to the "*Præfict*. And not only them, but the *Pretor*, called *Pretor Talaris*; for as in "Old Time there was a *Pretor*, which especially concerning himself about Liberty, "bestowed on Slaves) had thence the Title of *Pretor Liberals*; so also *Marcus An- "toninus* the Emperour Intimated another, who from his Principal Charge of *Tutions* "and *Curatorships*, obtained that of *Talaris*; for it concerned the State as much that "Persons under Age should be Protected, and their Estates secured; as that, by virtue "of *Manumissions*, new Citizens should be added to the Body Politick. But, as "for such as were by the *Præfict*, and these Persons should be assigned, to satisfy the Doubt "thereupon, the Emperour declares, that they may be of any Order, so they be just "and fit Persons. For, Fidelity doth not depend upon Dignity, or Being of such a "Race or Stock, Honesty and Integrity being often conspicuous, may sometimes more "in those of lesser quality. So that to a Boy of *Senatorian* Rank a Person of *Equestri- "an* Order, or a *Plebeian*, might be assigned Tutor; yet so as he excepted such as "were bound to the Services of Corporations, from being assigned Guardians to the "Sons of Senators. In the last place, he so far inforces this Law, as only to have "

Theodosius for-
bids any thing
to be Exacted
for good
News.

Ordains how
Guardians
shall be assign-
ed to Youths
of Senatorian
Degree.

A. D.
389.

Actio in offi-
cium Tri-
bunali.

Hæti Tatiane
K.N. B. L. ult.
N. quid pub-
lica lætitia
mentis Or.
Cod. Th. Dat.
4. Kelt. Mediol.
Anno a Cod.
Jul.

L. 3. de Tutor-
ibus et Cur-
atoribus crea-
tis. Cod. Th.
lib. 9. tit. 17.
L. 1. de Tu-
toribus, vel Cu-
ratoribus. Illo-
quium vel cla-
rissimam per-
sonam. Dat.
6. Kelt. Jan.
Mediol.

place,

SECT. 4. Place, where no Guardians were assigned by Testament, or such as by Law and of Course were to have the Charge, were wanting. And in other matters he leaves the Conditions and Estates of *Minors* to be Regulated and Ordered by the ancient Laws.

A.D.
389.

The Empe-
rors refrain
such as seized
upon Confi-
cated Goods.

76. Now it's to be concluded, the Officers of the Revenue were busy in Gall, in confiscating the Estates of *Maximus* and his Followers. For, though *Pacatus* speaks so much like a Panegyrist, of the mildness shewed by *Theodosius* after the Victory, and have the Fortunes and Estates of guilty Persons were spared; yet is he not to be understood, as if there were no Confiscation at all; for, besides it would how be imprudent to leave so dreadful a Rebellion and Usurpation altogether unpunished, we are assured of proceedings in this way from the Contents of a Law published this year at *Trier*, on the fourteenth of *June*. Among the Goods belonging to the late *Tyrant*, his Son and Officers, were (as needs must be) found also such as belonged to private persons, which they had unjustly seized; and the Emperors were informed, that without any due Process or Form observed, after publication made of the Estates of the Traitors, some private Persons laid Hands upon several things they pretended to belong to themselves, not staying for any due Trial or Sentence, but being their own Judges in the point. Hereof the Emperors show an high and just Repentment, and command that all things so seized shall, notwithstanding, be appropriated by the Treasury, in way of punishment of these Arrogant Persons, who, when they might have had a fair Trial, would not stay for Judgement, but despising that Victory, which Justice at length must have brought them, made choice rather of that Conquest which their own Audaciousness objected to them. In case such Persons had Right on their side, yet in way of Punishment for their Impudence, they Ordain that they lose their Suit, or the thing that was in Question, though of Right it belonged to them. And in case the thing so seized, or invaded, did not of Right belong to the Seizor or Invader, he should forfeit the Value of the Thing so unjustly seized. Now what they Ordain in reference to the Publick, as to this Concern, they also think fit to Apply to the Affairs of particular men, imposing the same Penalty upon any Violent or Forcible Enterer whatsoever. In Conclusion, they enact like themselves, that their Exchequer shall not begin any Action upon these People being in possession, though of the whole Confiscate Estates; that it do not make any Question or Examination, but receive all such Quarrels and Demands. This Constitution is directed to *Masianus*, the Comes *Rei Private*, to whose Treasury these Confiscations did belong, and to whom they give the Title of *Magnificence*.

77. Though *Theodosius* was now in *Italy*, and a great distance from his own District, yet had he still his thoughts upon it, and especially such parts thereof as were exposed to the Incursions of *Barbarians*. And need there was for his so doing; for *Zosimus* writes, that such of them as had hid themselves in the Fens, and in the Woods adjoining to the Marshes, upon the falling down of the *Romans* upon them, now hearing that he was employed in the Civil War, took the Advantage and made great havock of all things in *Macedonia* and *Thessaly*, without resistance. Whether it were in reference to these motions or for respecting the Insolence of the *Goths*; the state of the Times required that *Ilyricum* should be well defended. For this purpose, whereas *Gratian* had ordained that the Souldiers called *Comitatenses* should receive their Provisions in kind; but those that lay upon the Borders in Money: *Theodosius* now thought fit, that, what Supply was wont to be made out of the *East* to *Ilyricum*, should all indistinctly be paid in Money. Possibly because in *Ilyricum* there was plenty enough of Provisions to be bought up, and it was found, by experience, that what was brought to far received detriment by the Conveyance. He instanceth in three things, *viz.* *Bacon*, *Oyl* and *Salt*, and sets the Rates to be paid for them; one *Solidus* for eighty pounds of *Bacon*, and as many of *Oyle*, and as much for twelve *modii* of *Salt*; so that it appears that *Bacon* and *Oyl* was of the same value in those days, and eighty pounds of each was of the value of one *Solidus* or *Aureus*. But this course of receiving Provisions in kind, or Money in lieu of them was altered according to the pleasure of Princes, and exigency of Affairs. And as he might find reason to change Provisions into Money because of their ordinary corrupting, by reason of the length of the ways; so at this time he was certified of the corrupting of Money it self where this Supply was to be had. "This provoked him by an Edict directed to *Tatian* to declare such Persons as should falsify the Coin (whom

T. rel. s. O. orders the Edict to be simply observed with Money in lieu of Provisions.

L. 17. de Constitutionibus Cels. de Adh. a Cels. J. p.

SECT. 4. he calleth by the name of *Paracharastæ*) to be guilty of the Crime of High Treason; this Offence being generally esteemed a violation of the Rights of Majesty.

A.D.
389.

Theodosius accompanied with Valentinian and his Son Housius goes to Rome.

78. But now went *Theodosius* to *Rome*, accompanied by *Valentinian* and by *Housius* his Son, towards the middle of *June*, and there they resided for the most part of three months, *viz.* *June*, *July* and *August* following. For by the Dates of certain Laws made at that City, we find them there on the seventeenth of *June* and the twenty eighth of *August*; and betwixt those Dates several other Constitutions made, as for the good of the Empire in general, so principally for the concerns of that Mother City. The first is of Religious concernment, it being a good and profitable thing for Princes to begin with such matters, which being to consider in its proper place, we shall take notice, that though he now resided in the City of *Rome*, and principally concerned himself, with *Valentinian*, for that Mother City, yet his thoughts ran upon the Beautifying and Adorning the other of *Constantinople*, possibly moved by some Indignation that the Daughter, and which was now the Seat of his own Empire, bore no greater resemblance to the Mother. He directed an Edict to *Proculus*, *Præfekt* of that City, wherein he takes notice, "That it's a very unbecoming thing, that the publick Splendor of a City should be corrupted, or spoiled, by the adjoining of private Houses; and that the Ornaments that had been added in his time or before it, should be eclipsed by such works as had only their rise from greediness after Money. Therefore he empowers him

Thence he directs an Edict for the Beautifying of Constantinople.

(to whom he gives the Title of *His Sublime Eminence*) to remove all such Incroachments, if they spoiled the Prospect or the Beauty of the Place, whether they had been introduced by the meer presumption of the Builders, or by leave surreptitiously procured; leaving it fully to him to demolish or let stand what he should think fit. By these private Buildings are to be understood Shops, which as in every publick place, where multitudes or concourse of People are, were not only then and there erected, but we see now to creep up every where for the ready sale of, often times, but trifling Commodities. So now it happened at *Constantinople*, where the *Forum*, the entrances to the publick Baths, as we see at this Day the Entries into *Churches* (usually with Books and Beads) and the places of publick Administration of Justice were pestered. But we must needs take further notice of what *Theodosius* mentions in this Law, concerning publick Ornaments which were added in his Days; to whom the Writings of several other persons bear witness: particularly those of *Theophrastus*, of which we have spoken heretofore. These were an *Haven* or *Port*, an *Aqueduct*, a *Palace* which bore his Name, *Baths*, *Porticus*, *Gymnasia*, and the *Forum* which was also called after him, of which is made mention in an old Description of *Constantinople*. There was also when the *Tyrants* were overthrown and destroyed, a *Column* erected in the *Hippodrome*, when *Proculus* was Judge or *Præfekt* of the City (on which were engraven two Inscriptions or Epigrams, the one in Greek, the other in Latine) which accords with this very year.

79. *Theodosius* thus, at *Rome* provided for the lustre of *Constantinople*, but it was, probably, as we said, by having a view of that old Sovereign City; that he knewed the better how to correct the mistakes committed in the contrivement of the New. He might the more conveniently behold the Buildings, because he made his Entry in Triumph; sometimes in his Chariot and sometimes on Foot, and so, as one changeth the Word, *He triumphed every War, and Victory it self*. In the Court-House he spoke to the Senate, and at the *Rostra* to the People, carrying himself as a Prince to them all in general, and as a Senator to each in particular. In the Senate House he was commended by *Pacatus*, a most Eloquent and Witty Person, in that Panegyric Oration of which we have made so much use already, and must do more, wherein touching at other matters, he hath especially celebrated this Law, Victory and Triumph over *Maximus*. Concluding his Speech, at the close he tells him, That it should suffice to have spoken of such of his Acts as were already past; and now when in course he was to make mention of what he did at present, he would rather choose to make an end of his Oration, than to invade the Office of the most ample order of the Senators. He hopes that he should obtain pardon for his pious temerity, whereby he did not so much invade what belonged to other persons, as made use of what was common to all Subjects. That it was, he hoped, lawful for him to speak of such things as were happily performed by him, amongst Barbarous Nations, and in foreign Provinces for the Sovereign command, with his Permission and the favour of the Senate, leaving what he had done

How he demeaned himself at Rome.

Pacatus his Panegyric Oration to him in the Senate House.

Signatur.

Sec. 4 it seems to have taken away all thoughts of its having been made in reference to the *Bakers*. These *Municipes* of the *Baths* had also the Charge of the *Salpitis*, which were in the eleventh Region of the City, near to the Gate called *Porta Tergemina*, and they received the Profit or Advantage of them; which Privilege, for their Incouragement was confirmed to them by *Valentinian*. Therefore are they indifferently termed *Municipes Thermanum* and *Salinarum*; and as *Juratus* observes, they were under the Disposition of *Macedonius* as *Comes Sacrarum Largitionum*, the business of Salt belonging to his Jurisdiction. Yet the Overfight of the Baths, or other publick Works of the City belonged to *Symmachus* the Prefect, whose course of procedure in his Office is much illustrated by his Epistles. But we see by this and other of his Addressees in this Nature, that though *Theodosius* was distant at *Constantinople*, yet the great Officers had recourse to him in matters of Consequence, probably the more because of the Minority of *Valentinian*, whom we may believe he assisted in making Laws and other Acts for the good establishment of those Countries he had again subjected to his Command, whilst yet he remained in these Quarters.

The Emperors restrain malicious Accusations upon pretence of Magic.

83. But however, the Law concerning *Municipes* might be intended; whether in Order to that Chastisement of *Bakers*, of which *Socrates* writes; there is another extant which made up part of the same Constitution, being of the same Date, and directed to the same Person, and tending also to the correction of Manners. We have already spoken how greatly the Art of Magic was abhorred in this Age, especially in the Days of *Valens*; how the Practice thereof was esteemed next to that of High Treason, and the Practisers themselves were reckoned for no less than Traitors and publick Enemies. Now it being a thing sufficiently known, that it was lawful to kill a publick Enemy or a Traitor to his Country, who might be dispatched by the Hand of a private Person whoever he met him; this gave incouragement to several sorts of Persons to serve the ends, either of their selfish Designs, or their Malice, upon those that were commonly and notoriously infamed with this Crime. For some there were who were guilty of it themselves, and when they feared to be discovered by those that were (possibly) not so much to be blamed as they, to avoid accusation, they began first, killed the Party, and thereby evaded that punishment, which was most deserved by themselves. Others upon private Spleen and Malice, for satisfying of their private Revenge took this course to be rid of those they most desired to have out of the way. The Emperors now at *Rome*, taking notice thereof, command *Albinus* the Prefect, "That, whosoever shall find any Person guilty of this Crime, he shall seize, and presently bring him forth, and subject the Enemy of the publick Safety, to publick Judgement. And especially they lay this Injunction upon those called *Agitatores*, or the Chariot-drivers of these times, who ran Races in the Cirque, and were wont to be guilty of this Crime, even upon this double account: For, this sort of men is wonderfully belied if they did not practise the Art of Magic to obtain the Victory in those Races. And hence they were wont to accuse and kill first, that they might not be discovered; and also to brand their Adversaries with this Crime, and render them infamous; that removing such out of the way, as they thought most Expert in the Art of Driving; they themselves might win the desired Prizes in the Cirque.

84. That these men were wont to use Enchantment for obtaining the Victory in Courses, by hindring the Speed of those that were to run against them, and intercepting one way or other the Swiftness of their Horses; as also by breaking the Wheels of the Chariots, or the Legs or Necks of the Riders or Horses, is sufficiently testified by several Writers, as *Ammianus* and others. Now, if any of these *Agitatores*, or any others of what sort soever shall offend against this Injunction, or "Clandestinely kill any Person, though manifestly guilty of the Crime of Magic," they pronounce he shall not escape Death himself, as suspected guilty of the Inducements we now mentioned, viz. that, he either had removed a Malefactor on purpose, that he might not discover his Associates, and so escape his due and severe trial at Law, or under pretence of this publick Justice, had destroyed his own Enemy, and that out of a more malicious Design. The Hands of the Emperors now being in, and they setting themselves to promote the Conveniences of the City, where they at present resided, especially in relation to Victuals; the condition of the *Swarii* was represented to them, who found Hogs-flesh for it, as we have already seen, ready to them. They being a Body Politick among themselves, had several Lands belonging to them, concerned several ways upon their Company, for the Carrying of

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In Ep. Syn.

L. i. tit. de Magistratibus et Municipibus. Cod. Theod. l. i. tit. de Magistratibus. Cod. Theod. l. i. tit. de Magistratibus.

Epist. ad Galla. in b. h.

L. i. tit. de Sacris. Cod. Theod. l. i. tit. de Sacris. Cod. Theod. l. i. tit. de Sacris.

oil

Sec. 4

The Emperors ordain several things in relation to the *Swarii*.

They remove from *Rome* to *Valentia*.

Where they make Edicts for the Ease of the Carriage of *Swarii*.

And in favour of the *Swarii*.

on of their Service, as divers other Incouragements granted them by Princes for this End. But these Lands, though defined to publick Ends, yet (as we find at this day in every place) were imbezeld, and by private persons drawn to their own Use and Accommodation, by various Tricks and Sleights of Law. "The Emperors Command *Albinus*, to whom they give the Title of his *Sublime Eminence*, either to recover these Lands to their due Use and Designment, or else to force such as were Possessed of them to undergo that Charge and Service which by Right was to lye upon the owners; For indeed these Lands were so defined to that Service, that they could not be transferred to other Uses. And they affirm it a Matter both of Equity and Law, that the Kinsmen, and *Originals*, as they term them, or the Sons and Posterity of the *Swarii*, being by their Blood and Original obnoxious to the Function, be also forced to the Charge. This Order or Edict was directed to *Albinus* on the Eighteenth of *August*; and eight days after, he was served with another Constitution in behalf of the same Company. Herein the Emperors signify, that they had it repented to them, how that being put to much labour and toils for the benefit of the People of *Rome*, the Emperor *Gratian* had thought it fit, that they should not be subject to sordid Employments. They therefore command his Illustrations Authority (so they term him) to maintain the Authority of the Imperial Constitutions, and with Competent Threatnings to be urgent with his Officers to put in force what undoubtedly had been before Decreed, and never had been nulled by any Repeal. Now what the Functions or Services were, which were under the Name of *Sordida Munera*, we have already shewn, neither is this of *Swarii* to be reckoned in their Number.

85. The Emperors, while they were in *Rome*, further took care against the Abuse of the Aqueducts of that City, and then their leave of it, (after about three Months stay) on the first of *September*, and came to *Valentia*; not that City of *Italy* situate among the *Bruttii*, but probably another Town lying near to *Brundisium*. Hence bears Date on the third of this Month another Edict directed to *Celsarius*, the *Magister Officiorum* of the East, the same that was sent by *Theodosius* to *Antioch* upon the occasion of the sedition raised in that City. "Whereas four sorts of Military Men, who were wont to travel, and be sent to and fro upon publick Errands for defence of the Empire, viz. The Inferior and Lesser sort of *Comites*, who were destined for the Safeguard of the Limits, the *Tribuni Militum*, the *Domestick Protectores*, and the *Agentes in Rebus*, were indulged so far as to make Use of the Vehicular Course, or the Publick Waggon; this *Theodosius* prohibits for the time to come, and for their greater Speed and Dispatch will have them have Horses only allowed. And that therein they be not too burthenome, by requiring so great a Number of these Horses, he assigns how many shall be allowed to each Rank, viz. to the *Comites* Four besides a Sumpter; to a *Tribune* Three, and to the *Domestick Protectores*, and the *Agentes in Rebus*, but Two a piece: And of this he will have the several Governours of Provinces to take care. *Valentinian*, about the same time, had a desire to reward and incourage such as faithfully served him in his *Scrimia*, for he ordered by an Edict directed to *Constantinus* the *Prefectus Pretorio* of *Gall*, "That in the presence of the ordinary Judges, or Governours of Provinces, they should enjoy three sorts of Honours or Privileges: The first of these was, That they should be admitted to Salute or receive a Kiss from them upon occasion, when they met them. The next was, of Coming freely into their *Secretaria* or Courts of Justice when they pleased; which none but such privileged Persons could do, except they were sent for by the Judge, or had business depending. And not only will he have these *Scrimarii* enjoy this Honour, but also liberty of sitting with them upon the Bench, when they shall so please. The reason he gives for it is, because such had liberty to come into the Prince his *Consistory*, and therefore might well be admitted into the *Secretaria* of the ordinary Judges, viz. the *Consulares* and *Prefides*, for of such the Law makes mention; and therefore those Governours, which by Degree were *Speiabiles*, as *Proconsuls* and *Vicars*, are not hereby to be understood. So great Respect did *Valentinian* bear to these his Officers; though the same Honour was also given to others, as to *Domesticks* and *Protectores* at another time. In case there was an Omission of this Civility; he imposed a Mult of three Pounds of Gold upon the *Principes*, *Comitularius*, or other Heads of the Office of the ordinary Judge, to whom it seems it belonged to introduce Persons to the Ceremony of the Kiss, and into the *Secretarium*.

89. This Law was not Dated, (as the Copies corruptly have it) but Received at *Triers* on the eighth day of *November*; for the Emperors from *Rome*, by the way of

Valentia

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L. i. tit. de Magistratibus et Municipibus. Cod. Theod. l. i. tit. de Magistratibus. Cod. Theod. l. i. tit. de Magistratibus.

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Sect. 4.

The come to Milan.

Valentinian takes care for the safety of his Person.

They forbid the raising of New Works.

Refraine Contributions made to greater Cities.

Take care for Orphans.

Valentia and Forofaminum, removed to *Milan*, where, by the Subscription of another Law, we find them on the six and twentieth of this Month. Thence also they gave out an Edict on the seventeenth of December following, to *Tatianus the Præfatus Pretorio* of the East, (the Successor of *Cyngius*) commanding him to write to the *Magister Officiorum*, under whom served such as were said to be in the *Militia Magisteriana* or *Scholaris*; as also to the *Comes Sacrarum Largitionum* and *Comes Rei private*, under whom were the *Militia Palatina*, that all such *Curiales*, or obnoxious to Corporations, as had crept into Employment under them, should be rendered back to the Services of the respective Bodies from which they came; which is rationally thought intended for the relief of the City of *Antioch*; for under this *Tatianus*, as appears by an Epistle of *Liberianus*, directed to him, was a message sent to the Prince for supplying the great Want there was in the Court of this Corporation. The *Franks* about this time making new Depredations in *Gall*; *Arbogastes* thought such Inference was not to be endured, and therefore put *Valentinian* in mind, that they were to smart for it, except they made satisfaction for such mischief as they did the preceding year, when they defeated the Legions; and delivered up the Authors of the War, in whom their perfiduousness should be punished. After a few days he went to them himself, and had Conference with *Marcomeres* and *Suno* their *Reguli*, of whom he required and obtained Hostages, and so returned into his Winter-Quarters to *Triers*.

87. The CCCXC. Year of our Lord had for Consuls, the Emperor *Valentinian* the fourth time, and *Neoterius*. The *Præfatus Pretorio* of the East was *Tatianus*; of *Illyricum* and *Italy*, for some time, *Polemius*; and afterward *Flavia Valentinian* and *Neoterius*. The two Emperors continued at *Milan* together till towards the Month of *August*, where they made several Orders directed to the Officers of both their Districts. *Valentinian*, as if he had some jealousy or apprehension of what shortly after befell him, to avoid the treachery of those that were near about him, commanded *Severus* his *Comes* and *Cæstrensis*, that none should be admitted to Attendance about his Person, but those that had first his own approbation. The Governours of Provinces were now very liberal of the publick Purse, in raising publick Buildings, with design of fixing their own Names to the Walls, and thereby to gain Fame, and perpetuate their Memories; which being found to exhaust the Treasury; the Emperours, by one Constitution, thought directed to two Persons, *Viz. Albinius the Præfatus of Rome*, and *Polemius the Præfatus Pretorio* of *Italy* and *Illyricum*, command that no New Works be raised, either in the *Ætternal City*, as they term it, or in any other. This they enforce by a tri-ple Penalty, whereof the first is, that such Judges or Governours, shall be obliged to perfect such Works so rashly begun, at their own Charge; the next, that no allowance shall be made of any Sums of Money to the Caltheers that laid it out upon such Uses; besides, a Fine of Ten Pounds of Gold they lay upon such Judge and his Office that so offend. We have formerly said, That in Case the Revenues of the most eminent City of any Province did not suffice for the maintenance of its publick Buildings, it was to be supplied out of the Incomes of those that were of a lower rank. But this liberty and Indulgence had given occasion to unreasonable men to require and exact more than was convenient, and when there was no need of Assistance from other places; which caused *Valentinian* now to qualify that Licence, which formerly had been in Charity given in this kind, so as no Contribution should be made, except all the Revenue belonging to the Principal City it- self and destined to this Use were exhausted; and then too, the Emperour himself should be informed both of this Supply, how much it was, how laid out, and what was effected by it. *Theodosius*, about the same time, was advertized from the *East*, of great havoc made in the Estates of Infants and Minors, to whom their Mothers were Guardians; For they marrying again very commonly, their second Husbands reckoned on all as their own, which they could make (right or wrong) out of the Goods and Possessions of the Children. To prevent this mischief for the time to come, he prescribed now to *Tatianus* the *Præfatus* fix Rules, according to which either Mothers or other Persons should be assigned Guardians. That the Tuition should be committed to them, and by Name. That they should not be forced to it, but be assigned Guardians upon their own seeking. But not Confirmed in that Charge till they had Engaged in Court that they would not marry again. Neither should any be admitted to the Tuition, except they themselves were of full Age, or twenty five years old, it being unreasonable that they should manage the Estates of others, who could not transact in their own behalf. Neither yet in the next place

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L. 19. de Interdictis Cod. Th.

L. 120. de Curatoriis Cod. Th. Añt. à Cod. Juf.

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L. 29. de Pænitentiis S. L. 6. R. P. Cod. Th.

L. 12. de Pænitentiis S. L. 6. R. P. Cod. Th.

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L. 12. de Pænitentiis S. L. 6. R. P. Cod. Th.

Sect. 4.

Refraine the immoderate privileges of Senators.

Theodosius determines Contrivances a-bout finding of Treasure.

place should their Request be granted, except there were failure of another lawful Tutor, whether such by Succession and Kindred, or assigned by the Testament of the Parent. If there wanted such an one, or if he was excused by Privilege, was removed as a suspected Person, or was found by reason of some Infirmary of Body or Mind not fit to manage his own Estate, then might the Mother be admitted upon her Desire being a Widow. And lastly, in Case the married afterward, the Estate of her second Husband should (by a tacite Right) be engaged to answer and make good the Interest of the Minor. Such were the Terms on which *Theodosius* would admit of Mothers to be Guardians, the strictness of which was altered in aftertimes, so as the Grandmother might be admitted as well as the Mother: But at this day, there's no need the should desire the Employment, or be confirmed in it. And both Mother and Grandmother are preferred before the *Tutores Legitimi*, or those of the Kindred, though not before such as the Testaments of the deceased Parents had assigned. A Change of Laws following the Mutation of Manners.

88. Great Men, that were obnoxious to their Creditors, would pretend they had greater Immunities than the safety of the Publick would permit they should; so that it was uncertain in what place they could be Sued. To clear this Point, and that both they, and those they gave Cause of Action to, might be in some certainty, the Emperours now declared, "That in respect of their Dignity, the Residence of Senators ought to be supposed to be at the most Sacred City, meaning that of *Rome*, or *Constantinople*. But withall, they tell the Senate, that in pecuniary Causes, whether they dwell in the City or near unto it, they should be convened in the Court, either of the *Præfatus Pretorio*, or the *Præfatus* of the City, or of the *Magister Officiorum*, if he received their Order for it; but in the Provinces they should answer, where they fixed their Habitation, or where the greatest part of their Estates lay, and they were commonly resident. To be sure *Constantinople*, at this time, was much enlarged by the Care and Munificence of *Theodosius*, and thereby afforded much conveniency of living both to Senators and others. The place where it stood, or *Byzantium*, had been inhabited in former Ages, and, as we formerly shewed, was considerable in the World in respect of its Situation and Wealth. And therefore, we perceive, in digging and laying the new Foundations, many old ones were discovered, and not seldom, Treasure was found hidden or lost in those places where they had occasion to open the Ground. Hereupon much Envy and Contention followed, those that could not have the same good fortune themselves grudging that of their Neighbours, and pretending to intitle the Emperour to it as his due. *Theodosius*, to obviate all such Informations, and to encourage Builders, as it seems, had Ten Years before declared in an Edict directed to the People of *Constantinople*, "That whatsoever found any hid Treasures, Jewels, Medals, or the like, laid there in Ancient Times, and the Owners whereof could not be knowne, should have and freely enjoy them, without fear of any Information or Trouble thence arising in his Exchequer. But, as he saith, he then thought fit, out of Natural Equity, to add some Temperament to this Indulgence, so as he, who found the Treasure in his own Ground, should have it freely and absolutely to himself; but he that found it in another Man's Ground, should admit the owner of the Soil to a fourth part of the Value. And he prohibited that any should make use of this Licence to dig when they lifted in other Mens Lands, or pretend a fame of any thing to be therein hidden."

89. By the antienter Laws made by such Emperours as were too much addicted to the increasing of their Revenues, whatsoever Treasure was found, though in a Mans own Land, was adjudged to the publick Treasury. So it stood before the Reign of *Nerva* and *Hadrian*; but *Nerva* granted it freely to the Possessor of the Land, and so did *Hadrian*, following Natural Equity therein; and so the Law stood under the Governements of *Severus* and *Antoninus* *Caracalla*; under *Heliogabalus* Alteration seems to have been made, which that excellent Prince *Alexander Severus* again reformed; yet so as if the Treasure was great, he ordered his own Officers to go some thare with those that discovered it. After his time it was again adjudged to the Treasury, though found in the Land of the Discoverer till the days of the Emperours *Carus* and *Carinus*, who again left it free as before, till at length under *Diocletian*, *Maximinian* and others, it was again appropriated to the Exchequer. *Constantine*, when he came to the Government, took a middle course betwixt the two former which had so perpetually varied, and ordained, That if any discovered Treasure, and of his own Accord revealed it to the Officers of the Treasury, he should have half

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L. 2. de Inveniendis Cod. Th.

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half of it, & be free from all manner of Trouble or Prosecution, there being reason to trust such an one as of his own accord had made the Discovery. But if any Person found such Treasure, and not revealing was convicted of it, he should by no means enjoy the former favour. After *Constantine*, as Christianity took greater Root, so greater Liberty was Indulged, as by that Law of *Theodosius*, which ere now we mentioned, whereby whatsoever Treasure was found in any Mans Ground, it should be his own, were it never so great, or with whatsoever Character it was Stamped; for as *Alexander Severus* excepted the greater Treasures, so it is noted of *Ta-merlane*, That such Coins as bore the stamp of a King he ordained should be Confiscated. Some indeed have been of opinion, that all Treasure exceeding the Fortune of a Private Person should belong to the Prince, as in *France*, some think at this day the Treasures of Gold to belong to the King. Indeed the Governour of the Low Countries, when not long since the Sepulchre and Treasure of *Childerich King* of the *Frankes* was discovered, seized on it in the Kings behalf, but gave, as it's Christianism. But said, the value of it to the Poor of *Tournay*, where it was occasionally found. But further to encourage the Finder, or rather the Building of *Constantinople*, *Theodosius* gave three Parts of four to him that shall discover any in another Mans Ground, and only the Remainder to the Owner of the Ground; although at this day in *France* it be equally distributed betwixt the Owner, the Finder, and the Prince. But this he interprets to be understood only of accidental finding, for he will not permit upon this occasion, that any one search another Mans Ground, under pre- tence of presumption or fame of any thing to be there hid, or that the Common People did believe that so it was, pretending the Place to be haunted, as it was or- dinary believed that Spirits were wont to watch about Treasure. Thus much, as we said, did *Theodosius* Decree in an Edict published Ten Years before to the Peo- ple of *Constantinople*, which now by another directed to *Neuberius* he confirms in these words. "We permit, that those who, either by the Revelation of the Divinity or Conduct of Fortune, do find any Treasure, enjoy what they found without all fear for so doing. The ordinary Speech concerning the Conduct of Fortune, as a Christian Prince, he mitigates with the Providence of God, as *St. Au- gustine* corrects it upon another occasion. The Heathen also ascribed the finding of Treasure to the favour of their Gods, and particularly imposed this Taske upon *Hercules* and *Mercury*, and for this purpose they offered Sacrifice, and consulted their Magicians. But this, as *Theodosius* seems here tacitly to disallow, so *Ju- stinian* afterward forbad that any, by Sacrifice, or any other course odious to the Laws, should go about to seek for Treasure; which when found, he left intirely to the Owner who found it in his Ground. Though after him it became again Con- ficated, and such was the practice of the *Goths*.

90. At this time were the Emperors so severely bent against such as made forcible Entries upon the Lands or Possessions of other Men, as *Constantine*, for very great reason, formerly had been, "That such Slaves as should be convicted to have done such violence, by Witnesses, or their own Confessions, should, if they did it, un- known to their Masters, suffer death. If they did it for fear, and at the Intigila- tion of their Lords, they then declare it evident by the *Julian Law*, That such Lords shall incur Infamy, and enjoy no Privilege of their Place or Dignity; that is, if they were Persons of Place and Dignity, if not, they should incur the Loss of Life imposed by the Constitutions of Princes, though not by the *Julian Law*; as also such as should after this be convicted to have committed the second offence; and their Slaves that obeyed their Commands be condemned to the Mines. And in the last place, they inflict the pain of great Infamy upon that Judge that shall presume to Omit, Defend, or lessen the Punishment of any Per- son so convicted. Afterward *Valentinian* the Third required the value of the Injury unpunished by so negligent a Judge to be levied when he went out of his Office, and *Athalarich King* of the *Goths* commanded him to be deprived of his Girdle, and forfeit so much to the Treasury, as the Enterer by force had caused detriment to the Invaded; so hateful was this Crime of Violence to Christian Princes; more than that the *Julian Laws* expressed. "In those times of War and Danger they shewed themselves indulgent to the *Prinicerius* of a Fabrick or Forge, vouch- safing to him not only Vacation or Freedom from Service after two years, but also the Liberty of Adorning their *Aeternity*, as they terme it, or the Purple amongst the Protectors. But they thought fit to restrain the Office and Employment of the *Curiosi* also about this time, ordaining that they should be only chosen out of the *Agentes in Rebus*, as more resolute Persons than the Officers of the *Præfects* or *Vicars*, that

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that one out of them should be placed in the most Eminent City of every Pro- vince, whereas formerly two had been employed in each Province, and his work should only be to look to the Life and Charge of the *Curfus Publicus*, who (and how) made use of it: so that it seems they were no longer now to be Spies or Discoverers. Great was the Care and Circumspection this year of *Tatianus*, the *Præfectus Prætorio* about the *Naziculari*, and the conveyance of Provisions by Water, which the Emperors by an Edict do Approve and Confirm, so that both their Sons, and those that succeed in their Estates when dead, by whatsoever right, shall be obliged to the same Function, and still continue in the Rank of the *Curiales*, so as no Privilege obtained from the Prince himself shall obviate or null the Force of this Constitution; but the Son shall also succeed to the Office and Employment of a *Curialis*. Now was *Theodosius* the Emperor at *Verona*, whither he removed from *Milan*, and there abode the two Months of *August* and *September*. At the later end of *November* we find him there again, where on the twenty third of *December*, to provide for the better Security of the Provinces, by a Law directed to *Polemius* the *Præfectus Prætorio* of *Ilyricum* they prohibit that any Governor of a Province shall dare to come to the most August City, meaning *Constantinople*, without their Command. If it shall appear that any one offendeth against their Decree, they Denounce that he shall incur a Punish- ment suitable to his Contempt.

91. In the CCCXCI year of our Lord *Titus Fabius Tatianus* and *L. Aurelius Symmachus* had the Title of Consuls. *Tatianus* was till *Præfectus Prætorio* of the East; and *Flavianus* held this Office in *Ilyricum* and *Italy*. The Emperors con- tinued together at *Milan*, till about the Month of *May*, and there made three Laws, which are yet extant. The first was of Religious Concernment, and the second tended to the practice of Mercy, and Compassion towards such Children as had been sold to satisfy the Necessities of their Parents. Although the Law of the *Romans* did not allow that Ordinarily and Regularly any should either Sell, or give to Pledge their Children; yet was it permitted them to do it in extrem want or necessity, and that out of respect, as well to the one as the other. That in this Age whereof we now write, this was practised, appears from several Testimonies, and sometimes it was done to satisfy the Debts due to the Treasury. But though they were Slaves at present, yet was it not thought fit they should so continue, the several Emperors agreeing in this point, that they ought to be restored to liberty. But they differed in the manner of it. *Constantine* was of opinion, that the value of their service was to be paid, or another Slave to be delivered in the room of the Infanchanted. This now *Theodosius* seems to repeal, commanding all such as for want of Victuals had been sold, to be re- stored to their former Ingenuity, as the term is, or Free Condition, without re- quiring any remuneration of price, which was sufficiently paid by the slavery of a Free Person, though continuing for never so small a time. This had been formerly Ordained by *Trajan* concerning such as were exposed, that they should be restored to Liberty, though the charge of their keeping were not defrayed. But *Valentinian* the third afterward, when a cruel Famine had raged in *Italy*, declared indeed, that such as had been sold in it should be free, but that the Buyer should receive the Value back with the addition of a part, so that he should neither repent of his Purchase, nor that Liberty should be lost. For if all hope of recompence was taken away; what expectation should there be that such charity would be practised on the other Hand, if a necessity of Recompence were imposed, liberty the most inestimable thing in this life, would miserably be lost through that Necessity. *Justinian* approved best of the Law made by *Constantine*, and so did Princes vary in their Opinions according to the circumstances of times, and those Reasons and Arguments which they afforded: To be sure the fence of later Ages is most full of Mercy and Goodness, which since Christianity hath taken firmer Root and Settle- ment, forbids any to be made Slaves, or sold, though under pretence of Necessity, but to be relieved. And most full of Equity is that Law and Custom of our own, of putting such Children Apprentices, as we borrow the word, whose Parents are not able to keep them. So as we distinguish betwixt Service and Slavery, as well in point of time as to the quality of the Bondage.

92. From *Milan* *Theodosius* departed for the East, by the way of *Concordia*, where in the Month of *May* he made three Edicts in matters belonging to Reli- gion, and came to *Venice* in the parts of *Venetia*, whence also bare Date three other Laws of Secular concernment. The first of these takes care for preserving

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Removes toward the East by the way of Concordia.

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the Rivers clean and pure, where the Legions lay incamped and were wont to drink, that no filth should be derived down into them, nor that the Soldiers should be obscene in shewing their naked Bodies in the Water; but if they would swim, they should do it towards the Mouths of the Rivers, and below the usual Incampings of the Army. This was agreeable to the Use and Custom of the *Romans*, who appointed the place of Swimming at *Rome* down and below the River, that so no Sordes or Filth might come down, and the Common *Poculum* (as a River is often called) might not be polluted. And, however Nakedness might be approved by the *Lacedæmonians*, who caused their Youth to Exercise without their Cloaths, as well Men as Women; yet amongst the *Romans* it was esteemed Immodest and obscene, *Eunius* accounting it the beginning of Naughtiness, to uncover ones self amongst the People. This Constitution seems principally intended for the *Franks* or *Germans*, who, as we have seen in the History of *Julian* his Retreat, after *Julian*'s death, were very expert in Swimming, and therefore took much delight in that Exercise. And indeed the Law it self is directed to *Richomer*, under the Title of *Comes* and *Magister utriusque Militiæ*, or of both Horse and Foot; and with the Attribute of *Sublimis Magnificentia tua*. This *Richomer*, a Noble *Frank* by Birth, was very eminent at this time, both in respect of his great Command, of his Valour and Military Experience, and also of the high Favour he was in with the Princes of these times. We have seen how he was employed by *Gratian*, as *Comes Domesticorum*, and into *Thrace*, to the assistance of *Valens* with *Prospertus* and *Trajan*, and upon other Occasions. Under *Valentinian* he had now the place which this Law mentions, and upon the *Rhine* as it's thought. Under *Theodosius* he was designed *Consul* and employed against *Maximus* the Tyrant with good success, and with him he returned into the East, and was designed General of the Horse against *Eugenius* the Sophist, to whom he was dear, as well upon the Account of his Pagan Persuasion in matters of Religion, as otherwise. And now of late his Memory hath been Precious to *James Gothofred*, that learned Commentator upon *Theodosius* his Code, upon the account of his Original, which in Favour to the French Nation he hath revived as much as he could, upon Occasion of this Law being directed to him.

The Emperors give Persons liberty to dispose of their Estates.

93. On the same day, the Emperors, who were still together, after Grave and Mature deliberation, thought fit to Repeal a certain Law, made of later times for restraining Persons from alienating their Estates. Of old by the *Roman* Law any one might freely alienate, except in certain few Cases, as appears by many Passages, even in the time of *Dioclesian*. But it seems that *Constantine* the Great was moved to change the Custom by some that more affected the precepts of the *Mosaic* Law in things of this Nature, whereby the nearest a Kin might redeem and recover the Inheritance from such as were Strangers to the Lineage. *Constantine* thought this *Mosaic* Rule consonant enough to Christian Life, and to have a share of Equity and Decorum in it, that though every man might sell how and to whom he pleased, yet the Kindred, Comfort, or Joynt Purchaser or Tenant in Common might have the first Refusal, offering as much as another would give. And when the Seller should receive the same Price, Profit or Advantage, what Inconvenience could arise, but that a respect should be had to Kindred and Consortship? For, as for Kindred, great is the Dearness and Affection which is wont and ought to be betwixt those that descend from the same Ancestor; and it's a Seemly as well as Prudent thing, that an Inheritance be not alienated from an ancient Family. It makes also for Advantage and Reputation of Bargains and Enterprize, that a consideration be had to Consortship. However the Emperors thought fit to repeal this Law, as a grievous injury, covered over, as they say, with a vain Pretence and Show of Equity or Honesty, so as they leave it free to every man to make choice of what Buyer he pleaseth. And *Justinian* afterward, or *Tribonian* rather, admitted this their Repeal into his Code, yet with this Proviso, or Exception: If any Law in Special prohibited any Person to use such liberty in the Sale. Which Exception is not added in relation to Kindred or Consorts, but to others in general terms. For both of old time and henceforth besides an acknowledged agreeableness that Relations and Consorts should be preferred, several sorts of Persons challenged a Right of Præemption; as persons that Inhabited the same Town; when Sale was made of a Debtors goods. He that was both Creditor and Kinsman should be preferred before a meer Creditor on equal terms, but a

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L. 13. de re
militari. Cod.
Th. lib. 7. tit. 1.
C. L. 12. Cod.
Fol. 6. tit. 1.
D. 6. tit. 1.
Jan.

Vide Gothofr.
in Com. ad h. l.

L. 6. de Con-
trahenda Ro-
u. piane. Cod. Th.
lib. 3. tit. 1. C.
L. 14. Cod.
Fol. 6. tit. 1.

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meer Creditor before a meer Kinsman: and of Creditors he who was most deeply concerned; moreover, Contracts began a Right of Præemption, as also the Holding of Lands in that way, which they called *Emphyteusis*.

94. In like manner, long after this and *Justinian*'s Law, by a Constitution of the Emperor *Romanus Lacapenus* the Elder, to five several sorts of Persons this Right of Præemption was allowed; if they were Partners and kindred; if they had any Society and Fellowship with the Seller. Sometimes the poor were preferred in buying the Possessions of the Rich, (which again was Repealed) a Neighbour before a Stranger, and at length by universal consent, as it were, all Laws and Customs again returned to this Centre, by two sorts of Recoveries called *Gentilium Retractus* and *Feudalis*. Hereby, though liberty was given to sell to any Person an Inheritance, yet might the next Heir at Law, as we say, or the Lord, retract and make void this Sale. And upon these foundations were built several Laws and Constitutions of *Saxons*, *Italians* and others, whereby the old Law of *Constantine* was restored, with various amplifications: and here in our own Country the Law of Fees and Settlements cut off from many Persons the liberty of disposing of their own Estates. But, as to our present business; the Emperors repealed the Law of *Constantine*, upon the suggestion, as it seems, of *Flavianus* the *Præfectus Pretorio of Illyricum* and *Italy* to whom it is directed, who indeed had the Esteem of a notable, and very wise man, but he was a Pagan, and therefore averse to any thing of *Magical* Laws, or of Christian Convenience and Honesty according to that Pattern. But by another Branch of this and the same Constitution (though now made another Law) they tell us that what they did herein was done not without long deliberation; and therefore they declare that no Person whatsoever, shall pretend Ignorance of their Constitutions, nor dissemble the knowledge of them, being so weighed by long deliberation. It's a most known and approved saying that, the ignorance of Law excuses no man, part of which these premeditated or advised Constitutions made; as for *Rescripts* they indeed were of more private concernment, being Answers to such matters as were propounded to them for their Opinion and Determination, and yet such as have been entered amongst these Laws and registred in the received Books, being fitted to all other cases of the same Nature, have also the force of Law. And indeed this being at first intended to put in Execution the Constitution for repealing *Constantine*'s Law, that none might pretend Ignorance to it, or dissemble it, hath been afterwards applied to all other Constitutions of Princes so advisedly made. *Flavianus* was, as we see, *Præfect* both of *Italy* and *Illyricum*, and no wonder, *Probus* having been formerly both of *Italy*, *Illyricum* and *Africa*, and *Gall* was some time also under his care. And by *Illyricum*, whatever *Zosimus* or others have written, all *Illyricum* is to be meant, which was under the Empire of the East, and one Governor; till the death of *Valentinian* the Younger; after which it became divided into *Eastern* and *Western*, and the former fell to the share of *Theodosius*.

Theodosius re-
moves to
Aquilæ.

Where he
brides the li-
berty of Ap-
pealing.

95. From *Vincentia*, *Theodosius* removed to *Aquilæ*; whence he sent before him an Edict to *Proculus* the *Præfect* of *Constantinople* against the extravagant humour of appealing. Of old time it was lawful twice to appeal, because of the Diversity and subordination of Magistrates: as from the *Pretor* to the *Præfect* of the City, and from him to the Prince himself, but this being very dilatory in the Defendant, and many times defrauding the right owner of his Goods, at least deferring his enjoyment of them, he thought fit to bridle this liberty, by Ordaining that he who had already received two Judgements or Sentences in the same Cause, and both against him, should be forced to quit the said Goods, and the possession of them be transferred upon the other or adverse Party, till the thing should be determined. This punishment of transferring possession is otherwise imposed in case of Contumacy or Knavery, by the Laws. As it was lawful twice to appeal, so *Justinian* afterwards forbade it to be done the third time; but *Atalarich* the *Gothick* King prohibited the second. It seems by the Inscription and Date of another Constitution, that *Valentinian* accompanied his Colleague thus far on his way Eastward. For on the same day we find another Edict directed from the same Place to *Magnillus* the Vicar of *Africa* (though not said to be received at *Hadrumentum* till the beginning of the following year) which was in his District. The Exactors, as they were called, or Officers of the Treasury, whose work it was to defraim on the Goods of such as were Debtors to the Publick, and to expose them to Sale, often covenanted fraudulently with the Buyers, to sell them under worth, and receive

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Vide Gothofr.
in L. Cod.
Th. C. de Sa-
lutaris l. l.
Cod. Feb.

L. 2. de Consti-
t. Princip. &
Fol. Cod. Th.
lib. 1. tit. 1.
C. L. 12. Cod.
Fol. 6. tit. 1.
D. 6. tit. 1.
Jan.

L. 10. de possi-
sione ab eo qui
habet precatori-
um, transfor-
m. Cod. Th.
lib. 1. tit. 28.
Fol. 6. tit. 1.
D. 6. tit. 1.
Jan.

L. 2. de Fide
C. de Testa-
ment. l. 17.

Sect. 4. Eminent *Præfets* appoint to that Charge, after fufficient Caution taken for their Fidelity. So *Tribonian* hath made up his Law; whereas that of *Theodosius*, out of which this is Interpolated, mentions only *Curiales*, which live at convenient Distance, and are fufficiently Rich, and otherwife fit. By another Edict it feems, that the Power of the *Præfets* of the City became questioned within his own Diftrict, whilst that of the *Præfets* *Pretorio* was rampant till in thofe Days. For there stood need of a Declaration thereof, as appears by a Law directed to *Severinus* the Comes *Longitimum*, wherein is expreffed, That all the feveral Bodies, or Companies in *Conftantinople*, together with all the Citizens and Common Sort, fhall be fubject to his Government. But the *Præfets* of this City was but of late ftanding, and therefore might his Authority be more questioned. In thofe Days great Complaint was made of Husbandmen, fuch as were bound to the Service of the Place, their deferting their Work, and running away; which drew forth feveral Laws for the recalling them and their Children, and Prohibiting the Entertainment of them by other Perfons. And now alfo, whether by reafon of the Wars, which caufed fome to be difficult to inhabit, or becaufe of the Barrennefs of Grounds themfelves, the Owners of them often forfook them, and the Tributes thence arifing thereby failed. To prevent this mischief, thefe Emperors declared, "That in Cafe any other Perfons would apply themfelves to the Tilling and Manuring of thefe Lands, both for their own Private, and the publick Emolument, they would give them free leave fo to do. But in Cafe the Owner of the Land came and demanded it within Two Years, he fhould be reftored to his former poffeffion, paying the Charge which the New Comer had beftaid in the Melioration of his Ground. "If fo be he were filent Two Years, he fhould be utterly excluded from all Propriety in the Thing; the Necessity of the State fo requiring it."

SECT. V.

From the Murther of Valentinian the Second, to the Death of Theodosius the Great.

The fpace of Two Years and Eight Months.

I. VALENTINIAN being dead, though by fuch treacherous means, yet all kept f Silence at *Vienna*, out of refpect to the Dignity of that Man who they knew procured it, and was in high Esteem with them for his Valour, and efpecially his Contempt of Money, which made the Soldiers to revere him. He prefently declared *Eugenius* Emperor, which they alfo the better digefted, becaufe *Arbogastes* did it, and the Perfon himfelf promifed much from the good Parts wherewith they knew him to be furnifhed. The new Emperor, or Ufurper, conforming himfelf fully to his Will who had given him the Power, to ftrengthen that Title which he knew would be questioned, provided himfelf of a fufficient Power of Men raifed partly out of the *Romans* or Natives of the Empire, and partly out of the *Galls*, or *Frankes*, and fecured prefently all the *Gallick* Territories. But when the Rumor of the Murder of *Valentinian* flew further about, all Perfons were therewith affected, as became them; and above all others *Theodosius* was exceedingly perplexed, grieving, that he had loft a Colleague, and an Allye, in the Flower of his Age, who had fallen into the Hands of Men, that could not but be alienated from himfelf, and fuch as were not to be defpised, *Arbogastes* being Valiant and Bold, and *Eugenius* both Learned, and indued with other Virtues. This he both confidered within himfelf, and let not to utter upon occafion; and yet he refolved once more to venture for all, and to make all Preparations poffible for a War. He pitcht upon *Richimer* to Command his Horfe, having, upon divers occafions, had fufficient tryal of his Abilities, and upon feveral others, to have the Conduct of the Legions; but *Richimer* was taken away by Death, while as yet he deliberated upon the Expedition; and fo he was constrained to betake himfelf to new Councils. In the mean time, that we may look Weftward, the Sifters of *Valentinian* Redeemed his Body, and it was carried to *Milan*, there to be Interred. This, when *Theodosius* underftood, he wrote to *Ambrofe* the Bifhop to fee his Funerals performed;

Sect. 5. performed; which being done, he Compofed a Treatife in his Commendation, and afterward published it, wherein this is confiderable, That he affirms him young in Years, but as to Wifdom and Council, an Old Man.

2. Having declared, how much they of *Italy* were obliged to him, for his Refolution of hazarding his Perfon to preferve them in fafety, he adds, That he corrected the Errors of his Youth, even before he had learned any. He was reported at firft to be much delighted with the *Circencian* Games; but this Blot he fo far wiped off, that even on the Solemn Days of the Nativities of the Emperors, and for the Honour of the Imperial Majesty, he thought not fit that they fhould be Celebrated. Some reported of him, that he was fo far delighted with Hunting, and taken up therewith, that he neglected Publick Buſineſs; whereupon he commanded all thofe Wild Beasts he had made uſe of that way, fpeedily to be killed. His Ill-willers gave out, That he made too much haft to Dinner; which underftanding, he betook himfelf to fuch a Courſe of Faſting, that moſt commonly he Feaſted thofe about him, and eat nothing himſelf; thereby gratifying both Religion, and the Humanity of a Prince. There was a Report, that all the young Noble-men in the City were ſunk in Love with a Woman that Aſked publicly upon the Stage; this Woman he commanded to be brought to Court. The Meſſenger was corrupted by Money, and returned without her; whereupon he ſent another, that he might not appear to deſire to reforme the young Noble-men, without Effect. Hence ſome took occaſion to Traduce him; but when the Woman came, he never ſo much as looked on her, but commanded he ſhould he away; both that his Commands might not be diſobeyed, and that he might admoniſh the Young Men to ceafe to be inamoured of that Creature which was deſpised by him, though he had her in his Power. And this he did, being unmarried; and ſhewed himſelf as temperate, as if he had been bound in the Bonds of Wedlock. After this he falls into this Exclamation: Who ever was ſo abſolute a Lord over his Slave, as he was over his Body? Who ever was ſo ſevere a Judge of other Perfons, as he was a Cenſor of his own Age? To what purpoſe ſhould I ſpeak of his Piety? who when Noble and Opulent Perfons were accuſed before him of any Crime, and the Judge Aſſiſtant urged him to Severity, would anſwer, That no Bloody Act was to be Committed, eſpecially on Holy-days. After this the Biſhop laments, That he could not have timely Notice; that he might have interpoſed betwixt him and *Arbogastes*; whome he doubted not but to have drawn to Terms of Duty and Moderation.

3. But to return to *Conſtantinople*, we there find *Theodosius* Vigorous in Preparations to Chafiſe the Uſurper, and thofe that ſet him up: and that upon Principles of Honour, rather than what *Zollinus* ſuggeſts, as the great Incentive to this Undertaking. This Writer, as in former Paſſages, he makes him to have been aſſed by Women, and efpecially by his love to *Galla*, the Siſter of the Deceased Prince; ſo in this Deſign alſo he intimates, That he was chiefly indued to the revenging of his Death by her Tears and Lamentations. He writes, That upon the News of it at *Conſtantinople*, ſhe made a Noiſe, and diſturbed all the Court with her Cries and Tears; whereas others place her Death before his at the Diſtance of no leſs than Two Years, or the CCCXC. Year of Our Lord. This happened while her Husband was ſtill in the Weſt; and ſhe was Buried by his Son *Arcadius*; and at the ſame time was Erected in the Forum of *Conſtantinople*, not far from the Church, a Colunne, on the Top whereof was placed the Statue of *Theodosius* in Silver; as alſo that Year an Obeliſk in the Cirque of the City. Theſe probably were Erected upon occaſion of her Death, and to her Memory, who left only one Daughter behind her, viz. *Galla Placidia*, of which Lady we are like to hear much hereafter. What Motives ſoever *Theodosius* had to the War, great Preparations he made for it both this and the following Year, which whether *Eugenius* was aware of or not, he ſent away as Ambaſſador to him one *Rufinus* an *Albanian*, to know of him, whether he would Conſent, that he ſhould Reſign together with him, or reſeſt his Advancement as null and frivolous. In his Negotiation he took no Notice at all of *Arbogastes*, nor brought any Letters from him. *Theodosius* was wary, and uſed delays in his Anſwer, of which, while he conſidered, another Matter of Conſequence fell out. When firſt he came to the Government, he admitted ſome Perfons out of the Barbarous Nations to Friendſhip and Society in War, and fought to oblige them by Gifts and fair Promiſes for the future. The Chief Captains of the ſeveral People he Courted, and ordinarily admitted to his Table. Amongſt theſe Men there was now riſen a Contentions; for ſome of them were for breaking the Oath of Fidelity which they had taken when they were firſt received; and others of them Contended, that

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He gives the
Messengers
good words.He takes care
for the Ho-
nour and
Safety of the
Curia.He deter-
mines how
and when
Provincial
Councils
should As-
semble.

by means their Faith was to be broken. Of the former Opinion was one *Prin-
tius*, who used Arguments to his Country-men, to Infringe their Oath, and *Fran-
sius* was as Active in dissuading his from committing any such Absurdity. For a
long time nothing was known of this their Difference; but at last, being at the Em-
perors Table, and heated with Wine, they freely declared their Judgments, and flew
so high, that he put an End to the Entertainment. Being gone from Court, they
were so enraged by each others Words, that *Fraustius* drew, and killed *Printius*; at
which sight, the Soldiers that were about them, were so nettled, that they had done
the like by *Fraustius* himself; but that they were hindered by the Emperors Guards,
which suppressed the Tumult. *Theodosius* having Notice of what had passed, made
little of it, but suffered them in this sort to make an End one of another. As
for the Ambassadors, he dismissed them altogether deceived with his Presents and
fair Words, and, after their Departure, applied himself to Military Preparations.

4. This while he did, he neglected not Matters of Civil Concernment, as appears
by several of his Constitutions. Upon the Courts of Corporations he still had his
Eye, upon the well Government of which depended the quiet of the several Pro-
vinces. As in the Schole of the *Domesticks*, there was one *Primicerius*, or Head,
whom followed Ten others the Chief in Number; and as in the Great Senate,
there was one they termed *Princeps Senatus*, who was first asked his Opinion; so in
these inferior Senates, there was one they called *Primus*; on whom now *Theodo-
sius* thought fit to confer the Honour and Degree of *Comes* of the Third Rank. Hereby
he received Immunity from Tortures, and all Injuries, and posibly from all such
Collations or Charges belonging to Senators; but still he will have him, for all this
Honour, bound to the Duties and Ties arising from his Birth, as still belonging to
the Body, of which he was a Member. There was need at this Time of extending, al-
though not this Honour, yet his Protection, to others of these Courts. For his Mil-
itary Officers, whom we find to have been much Cherished by him, out of respect
to the need he frequently had of them, were now exceeding high, and miserably op-
pressed the poor *Curiales*, especially those amongst them called *Principales*, who Ex-
acted the Tributes, and were to Protect the Country People; Beating and Tortur-
ing them at their Pleasure. This appears by an Oration of *Liberianus*, Published by
Gothofred, which he made this very Year, as the Translator concludes, upon great
Presumptions. For now *Theodosius* took notice of this their Inference, by an Ed-
ict directed to *Abundantius*, by the Title of *Comes*, and *Magister utriusq; Militiæ*;
wherein he Charges and Commands, That Military Men have nothing at all to do
with the *Curie*; nor meddle with that wherein they had no Authority: That no
Tribune, be he *Dux* or *Comes*, offer to beat, abuse, or touch any Principal *Curia-
lis*. If any hereafter shall be so Rash and Inconsiderate, as to dare to do it, or in-
jure any of these *Principal* Men, he will have him know, that he shall incur a Fine
of Ten Pounds of Gold.

5. About this Time the Country of *Illyricum*, for that the *Barbarians* had been very
troublesome to the Provinces thereof, or for other Reasons, stood in great need of
holding Assemblies, to make known and redress their Grievs; but there was some
Doubt again, how they ought to be Called and Managed. To explain this Doubt,
we find two several Edicts Incribed to *Apodemius* the *Præfatus Prætorio* of that
District, within the space of seven Weeks and less; the one bearing Date on the
Twenty Eighth of July, and the other of the Tenth of September. We have for-
merly told the Reader, how these Councils or Assemblies of the Provinces were ei-
ther *Ordinary*, (afterward by *Honorius* fixed to the Time Intervening from the *Ides*,
or Thirtieth of August, to the *Ides*, or Thirtieth of September) held once a
year, or else were Extraordinary, upon some pressing Occasion, which re-
quired some sudden help; when the Prince was to be sent to, or the *Præfatus
Prætorio*, who was next unto him. Concerning the latter Sort, or Extraordinary,
he seems now Confused, and Answers, as to the Power by which, and the Time,
at which they were to be Assembled. The Power of Calling or Appointing it, he
declares to be in the *Præfatus*, yet with the Assent of the *Provincials*; neither was he
by his Authority to disturb or govern it; as in the Church, (as *Gothofred* tells you)
the Right of Appointing the Times of Councils doth not infer any Absolute Power.
For the Place, he will have it Summoned to the Richest or most Populous City of
the whole Province, which he signifies ought not to be grudging by others, as if
they were thereby injured; for great Emulations there was wont to be betwixt
them, and Contentions which of them should have these Assemblies; in which the

Judges

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392.L. 127. de
Dignitatib.
Cod. Th. Dist.
Præf. Rel. Jul.
de Off. a. Cæd.
Jup.L. 128. de
Legatib. &
Cod. Th. Dist.
de L. 42. Cod.
de Jul. Cod. Dist.
Præf. Rel. Aug.L. 122. 13.
de Legatib. &
Cod. Th. Dist.
de L. 42. Cod.
de Jul. Cod. Dist.
Præf. Rel. Jul.
et. id.

Sect. 5.

He Severe-
ly against Judges
that oppress
their Provin-
cials.Zosimus his
Reflections
upon him.

Judges should Winter; and in other things, wherein their Profit was concerned.
In the most Populous Cities, he will have the largest Places to be chosen for the
Meeting, where most may come together, that matters relating to all may not be
determined by a few. As for the Persons which were to Constitute the Assemblies,
he Wills, that all Sorts be admitted, and come thither; not only the Common
People, and the *Curiales*, and Owners of Lands, but the *Primates* of Cities, Vil-
lages, or Castles, and all the *Honorati*, or such as had borne Offices, except Persons
of *Præfectorian* Rank, or such as had exercised the Office of *Præfatus*. Those in
the former Law he would have Consulted in their own Houses; as the Laws allow
Persons of Dignity to give Testimony at Home, and to be gone to upon other Oc-
casions, to preserve their Honour, and yet that their Advice may not be wanting.
But in the latter, he alters his Mind, giving Liberty to all of *Præfectorian* Rank,
or *Primates*, either to be present in the Assemblies, where Place and Respect
should be allowed them, according to their Quality, or, if they pleased, they
might send their Proctors or Deputies to declare their Opinions; as in other Mat-
ters the Laws permit Dignified Persons to make their Proxies, and sometimes con-
strain them so to do. In the last Place, he will have that alone Authentick and
Good, to which the Major Part shall assent, as is, and ever was the General
Rule; however at this Day, in the Northern Parts of Europe, the Dissent of
one Deputy makes Fruitless the Meeting and Debates of the whole Assembly.

6. Toward the latter end of this Year he received Information, true or false,
That some Publick Officers or Governors of the Provinces Oppressed, and exercis-
ed Rapine, in the Places committed to their Trust, against which Crime he now
proceeded with all Severity. He directed a Constitution to *Rufinus*, lately advanced
to be *Præfatus Prætorio* in the room of *Tatianus*, wherein he tells him, "That
by former Laws, such Judges as had afflicted the Provinces by the Crime he
terms *Peculatus*, should be subject to the Penalty of a Mult. But forasmuch as
this Punishment is not adequate to the Offence, nor the Vengeance taken suit-
able to the Sin, he is pleased to change it by a more severe Censure; that whereas
formerly can a Punishment be found fit for such Wickedness, nor so great Villany be
Expriated by Condon Torture, the Penalty Incurred shall be Death, and the
Crime be Retrainted by the most Severe Animadversion. Indeed, by the Ancient
Laws, one sort of that they called *Peculatus*, viz. Converting the Publick Money,
belonging to the Treasury, (taken in War, or raised out of Mines) to ones own
use, was punished by a Forfeiture of Four-fold; and by this Name was also un-
derstood the Suppression or Stealing of Monies, belonging to the Cities and Pro-
vinces. But Oppression, and exercising Rapine upon the Subject himself, is also
Signified by this Word, and the Wording of the Law seems to aim at the same Of-
fence; of which *Rufinus*, the newly Advanced *Præfatus*, either found, or made
some Persons Guilty. We must know, that of late he was crept into great Favour
with the Emperor, and Contrived the Ruine of his Predecessor, and Accomplished
it in this following manner, if you believe *Zosimus*, whose Story that we may
relate, we shall utter it in with the same Reflections that he makes upon *Theo-
dofius*.

7. Being Returned to *Constantinople*, (after his Disgrace, and the Success of
Promotus he was much Elevated for the Victory he had obtained against *Maximus*,
but being yet very sad upon what the *Barbarians* attempted upon him, and his
whole Army, he Resolved to bid farewell to all Wars, and Contentions that
way. Having committed to *Promotus* the Care of such like Matters, he himself
calling to mind his former Course of Life, made Magnificent Suppers, and was Cu-
rious in devising Pleasures, frequenting the Theatres, and the Games in the *Cir-
cus*. And here, faith he, I cannot but admire the Humour of this Man, and his
Course of Living, which was easily inclinable both ways. For, whereas by Na-
ture he was Sluggish, and given to Supine Negligence, and the Vices above recit-
ed; and if no sad or formidable Thing afforded him Trouble, he gave up the
Reins to Luxury; yet if any such Necessity pressed him as endangered his Estate;
he put off his Sloth, and bidding farewell to his Pleasures, resumed a Manly Cou-
rage, and Returned to a Laborious and Painful way of Life. Then again, though
by such Experience Instructed, when freed from his Cares and Fears, he would
subject himself to the Vices of his Lazy and Slothful Genius, which by Nature
were incident unto him. But of all his Officers, to whom he committed any
Charge, the most he set by was *Rufinus*, a Celtic, Gall by Nation, and Master of
his

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392.Vide l. 25.
de Præfatu-
rib. Cod. Jul.
lib. 2. tit. 13.Præfatus fuerat
constitutio ut
hi Judices
qui peculatus
procurarent
quæstionem
multæ dispen-
dia subirent.
Sed quo-
niam de-
L. 1. de Cri-
minis Pæcui-
latis. Cod. Th.
lib. 9. tit. 10.
Jup. Cod. tit.
hinc a Tili-
ano deforma-
ta est.

Zosimus p. 773.

H h 2

Theodosius.
Arcadius.

Sect. 5.

Rufinus the
new Prefect
Proculus cau-
sed Promotus
to be murder-
ed.

his *Palatine* Attendants. Him he trusted with the whole management, and none others he regarded, which gave Offence to *Timasius*, and *Promotus*, that after so many Dangers and Labours suited for the Service of the Common-wealth, they should be Esteemed less than he. However, *Rufinus* wonderfully pleased with his good Fortune, and puffed up therewith, at a certain Publick Council, spake something sharply against *Promotus*; who, not able to bear it, struck him on the Face. He presently betook himself to *Theodosius*, who, upon sight of the Bruise, fell into such a Passion, as to say, That except they would cease to be Envious against *Rufinus*, they should in a short time see him Reign. *Rufinus* still more intoxicated with Pride and Ambition, after he had heard these Words, as he was fierce, and harsh towards all Men, in Particular he perswaded *Theodosius* to command *Promotus* out of the Court, to Exercise some Soldiers for the War. This having obtained, as he travelled into *Thrace*, he caused some *Barbarians* to lye in wait for him, and cut his Throat; a Man who had both contemned Riches, and had faithfully demeaned himself toward the Princes. But, faith our Writer, He was justly served, for being employed by those, who so carelessly and impiously Administred the Affairs of the Common-wealth.

8. The Rumor of this Villany flying every where, while it is in every Mans Mouth, and every Modest Person abhorreth it, *Rufinus*, as if he had done some worthy and considerable Matter, is designed *Consul*. And now are *Tatianus* and *Proculus* his Son brought into trouble, though they had no otherwise offended him, than for that they were both *Prefects*, one of the *Pretorium*, and the other of the City, which Offices they had Exercised without Corruption, and as their very Duty of their Places obliged them. That his Designs against them might be brought about, *Tatianus* is first put out of his Place, and brought to his Tryal, *Rufinus* being advanced to be *Prefect*. For Forme and a Colour, others were joyned in Commission with him to hear and judge him, but the Authority of passing Sentence reserved to him alone. But because *Proculus* sufficiently knowing what he was to expect, had fled for his Safety, and *Rufinus* was afraid of him as an Industrious Man: Therefore, lest he should make some stir, and by his Wisdom disturb his Prosperous Condition, he Circumvented first his Father by Oaths, and other sorts of Fraud, and perswaded the Emperor to promise great Matters to them both, whereby the Old Man, from his True and Just Suspitions, was brought to approve of vain Dreams, and by Letters to recall his Son. He being apprehended, is straight Committed to Prison, and his Father Confined to his own Country; and the Commissioners have often Meetings for Dispatching the Process against *Proculus*, whom at length, as had been agreed betwixt them and *Rufinus*, they condemn to Death, to be Executed upon him at *Syca*, a Place not far distant from *Constantinople*, (now called *Pera*, and *Galata*) whither they Command him to be Conveyed. The Emperor considering of it, sent after to stop Execution; but the Messenger received Instructions from *Rufinus* to move slowly, so that he came not to the Place before his Head was cut from his Shoulders. Such is the Story concerning these Two Eminent Persons, their Tryal and Censure, which whether soever Just or Unjust, the Law we now mentioned is Rationally thought to have been part of the Rescript obtained by *Rufinus* in order to their Examination, and such Issue as they either Merited, or he Devised. The Country of *Tatianus* was *Lycia*, which hereupon he procured to be Infamous, but Four Years after was restored to its former Credit by *Arcadius*. The Day of the Execution of *Proculus* was the Sixth of *December*; of whose Death *Claudian* the Poet takes Notice, in his First Book against *Rufinus*, against whom he inveighs for his unparalleled Cruelty for Killing the Son, and banishing the Father: And he takes Notice also of the Mercy of the Emperor, eluded thus by this Merciles *Prefect*.

9. Little less than a month before the death of *Proculus*, or on the eleventh of *November*, *Theodosius* published an Edict in behalf of Married women, directed to *Martinianus* the Comes of the East at this time. In this he declares that he will have them enjoy the same Honour and Nobility with their Husbands, and that they answer upon any Impeachment in that Court of Justice where their Husbands ought to abide their trial, or to which their place of Habitation doth belong, which must be understood concerning their own private matters and causes; for in such as respected the publick Charges or Functions belonging to Lands, they were to be owned and discharged where the Wife had her Original. As

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392.

Theodosius.
Arcadius.
Honorius.

Sect. 5.

And Honorius.
bonds.

Advanceth his
Son Honorius to
the Dignity of Empe-
rour.

He rescinds
the Acts of
Tatianus.

Refrains Mi-
litary Officers
from meddling
in Civil Mar-
ters.

the Wife received Honour and other Conveniences from her Husband, it was thought fit that some respect should be shewed to him in way of Recompence for this, and all the Charge he sustained by the Marriage. But by the former Laws Husbands in certain Cases found Insurgers or Sureties for preserving and repaying the Dowry or Portions of their Wives, received with them; and this might be more a Custom in the East, where all sorts of Places and Persons abounded in Luxury, and men were wont to have very great Fortunes with their Wives. But this way of finding Sureties or giving Caution, now might justly seem very burthensome in the Common-wealth, as that which disturbed and perplexed the Estates of many Families, amongst so many Marriages, for many Securities being required, and conditions of Persons standing in so ticklish a posture, a man being rich to day, and often by some or other accident, especially of War, reduced to Poverty the ther Edict directed to the same *Theodosius* thought fit to abolish at this time by another Edict with the former, one and the same Constitution by *Gabriel*, whose opinion concerning this Interpretation of the Law we gladly close with, as most proper; but we cannot think that this extended to a mans own free and voluntary Act, which might be founded upon great Reason and Equity.

10. The CCCXCIII year of our Lord had *Theodosius Augustus* the third time, and *Fl. Abundantius* for Consuls. *Rufinus* continued *Prefect* of the *Pretorio* of the East; *Apollonius* of *Illyricum* and *Italy*; and *Aurelianus* was *Prefect* of *Constantinople* in the room of *Proculus*. *Theodosius* opened the year by creation of a new Emperor, which was *Honorius* his younger Son, whom he promoted to that Dignity on the tenth of *January*. Betwixt the Death of *Valentinian* and the Advancement of *Honorius* hapned two Solar Eclipses. One is mentioned by *St. Hierom*, who writes that it was seen with the conformation of many Persons about the days of *Pentecost*. But it hapned on the sixth of *June*, one and twenty days after *Whitsunday*. And the same year there was another Eclipse on the second of *December*, which, because it fell out some forty days before the Inauguration of *Honorius*, *Marcellinus* and *Proper* writ as if it hapned the same day, for which they are taxed by *Jacobus Cappelus* who also blames *Calvisius* for placing it at the twentieth of *November*. *Theodosius* continued all this year at *Constantinople*, where, as he carried on his preparations for the ensuing year, so he made as great provision for the well governing of the Commonwealth by several Laws, and the more need there was of it, because none at this time were made in the *West*, where *Engenius* the *Usurper* had his abode; at least that afterward were owned as Authentick. And those which we meet with bearing the most early Date, are two several Edicts directed, the one to *Rufinus*, and the other to *Drepanius*, the Comes Rei Private, for rescinding the Acts of *Tatianus*, so as such Goods or Estates as had fallen to the Treasury by any Proscriptions or Confiscations made by him as *Prefect* of the *Pretorio* should be restored to the Owners if they were alive, or else if they had already suffered death, to their Heirs. Moreover, by another Law inflicted to the same *Rufinus*, he takes off all extraordinary Taxes or Impositions laid by the said *Tatianus* upon the *Provincials*, being Payments to be made of the *Annone*, or Provisions for Use of the Army, out of, and beyond, the ordinary Tax or Prestation. This Emperor lately, as we have seen, prohibited the Officers of his Army to Molest or Injure any of the Principal *Civilians* in intermeddling with their Affairs, and so also he found Reason in the beginning of this Year to restrain their Interposing in the busineses of all other private Persons, by an Order directed to the *Comites* and *Magistri nrisque Militie*; for to these *Magistri* was added the Dignity of *Comites*. He forbids, That they give to any that Protection, which the Ordinary Judge of the Province was wont to afford to such as had Reason to fear the Insults or Violence of great Persons, or to commit any thing Decreed by such Judge to Execution by force of Arms. Hereby he only admits of their giving their Help and Assistance in publick Causes, which other Laws indeed do allow off; as to protect the *Necropolis* from such; injured them; to search for and apprehend Thieves; or to the Officers that collected the Tributes; to protect Churches, or the like. Although seven years before this, *Theodosius* had forbidden Souldiers thus to meddle, though assiged by a Judge, either in publick or private Busineses, Yet was there necessity now to renew the prohibition.

A.D.

393.

L. un. de Fide
Jufficij. Decret.
am. cod. Th.
lib. 3. tit. 15.
Juff. 2. cod.
Juff.

A.D.

393.

Fl. Abun-
dantio
Cofi.

In Ecclefie
Civilians Cre-
dita q. ad
an. 392.

L. 12. 13.
de nova pro-
fcriptione. cod.
Th. abbas. a
cod. Juff.

L. 22. de An-
nona & Tribu-
tu. cod. Th.
Dat. Prid. id.
Jen.

L. un. de Of-
ficio Judicis
Militarium.
cod. Th. lib. 1.
tit. 9. & L. 1.
cod. Juff. ed.
L. 1. de Con-
fessionibus. prid.
id. Feb.

Señ. 5.
He takes care
that Soldiers
do not op-
press the
Country.

should require any thing in the way of, or, for his *Salganum*, that is either Wood or Oyl, or Pallets to lye on. By *Salganum*, which is rationally derived from *Sal* or *Salt*, was originally signified Herbs or other things pickled, or preserved in Salt and Vinegar, and hence those that fold them were called *Salganarii*. But secondarily, because of the Pleasure taken in these things by the Soldiers or others, was the word applied to signify all things needful to the Sustainance and Refreshment of the Body, which still they would Tem and Exact by the name of *Salganum*. Because the Soldiers, to put themselves into Money, were wont to require and take the Price of the Provisions they were to receive in kind, and often, when they had got the one, exact the other too, or when Victuals were dear, then to take money wherewith to buy in time of plenty, he commands these same Officers that no man dare to exact Money in lieu of their Provisions, under pain of losing the price and thing also which he would have exchanged. But whereas there were some Provinces, which by reason of their distance, or the roughness of the way, were not in capacity to send their Provisions to such Ports as were taken up by the Army, nor indeed to the Granaries belonging to the Emperors private Exchequer, he commands that what *Tatianus* had formerly ordained in this point shall be observed. In this case he had Ordered that such like Provinces should be allotted to the Provisions allowed to the Officials belonging to their Governors or Ordinary Judges.

15. These Laws were such as must needs gratifie the Provincials who often suffered much from the Insolence of Soldiers; yet they were not to be named or regarded in comparison of a famous Edict he published at this time, and directed to *Rufinus* concerning Speeches uttered against his own Person. "If any one," saith he, being a Stranger to Modesty, and void of Shame, hath thought fit to abuse our Names by naughty and fawcy Language, and out of a giddy Humour be a turbulent Declaimer against the Times, we will not have him Punished, nor suffer any Harme: because if it proceeded from *Levity*, it is to be despised: if from *madness*, it is most worthy of pity: if from *Injury*, to be remitted. Therefore let the whole Matter be reported to us, that by the Persons of the Men we may weigh and consider their Words, and so resolve whether they be fit to be neglected or inquired into further. Hereby he Prohibits the Judges, or Governours of Provinces to punish any such Offenders, but commands that he himself have the hearing of them, by a certain Sentence most full of Clemency and Indulgence, promising in a manner his Grace and Pardon, if any one out of levity, madness or an injurious humour had reproached himself or the Times. And this he did out of his Connate Easiness and Clemency, being a Prince, whatsoever some have maliciously written against him, most eminent for Christian Policy and a merciful disposition: of which there are many testimonies given him by Heathen Writers of this Age, as well as other Laws he made upon this Subject, which so far evince his Genius to have been such, as that by some he is rather blamed for his too much Lenity, which encouraged ill natured persons to offend. Of all others, this Law for the Matter and Manner of it hath become most renowned, both in the Courts of Princes, and of Justice; being wont to be applied to several Arguments upon occasion; as whether Punishments are to be differed or mitigated; when the question is, whether Princes ought to slight or difsemble their knowledge of licentious Speeches; concerning matters referred to the cognifance of Princes themselves, and relation thereof to be made to them by their Judges; concerning the punishment of High Treason; or lastly when the several virtues becoming a Prince are exhibited, Mildness and Clemency so much exprest and set forth by this Law, are most inculcated as those which most adorn his Crown.

16. The Crime here to be remitted or inquired of is a sort of Treason, which according to the *Roman* Laws is contracted both by Words and Actions, but in the former sense is esteemed less, not of so high a Degree, of so deep a stain as the later. But these words were of two kinds, being cast out either, against the Prince himself or the Times, which amounted to much the same, reflecting upon the management of his Affairs. And never did any times more abound with these Calumniators, than those of these Christian Princes. For it was a common thing, an universal practice of the *Pagans*, amongst other Taunts and Abuses, to impute all Calamities that befell the Empire, or any particular place to Christian worship, as if the Decree of Nature by a certain Law tended to the punishment of that which they blasphemously termed Impiety. These old Objections are sufficiently known out of the Apologies of Ancient Christians. If any War ill succeeded, if any Army miscarried, if any Plague, Famine, or any other Publick Calamity fell upon any

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393.

L. 5. de Sal-
ganis hestitit.
Theodosius.
Cod. Tit. lib.
7. tit. 9.

De Abundantia
Stillicis.
De Ceteris
Culibus
Nivisque mil-
litis. 3. Kal.
Aug. An. 393.
Cod. Tit.

L. 1. 18. de
20. de Engli-
tione Militari.
Anno. Cod.
Th.

L. 1. 1. 1. 1. 1.

L. 1. 1. 1. 1. 1.
An. 393.
Cod. Tit.

L. 1. 1. 1. 1. 1.
An. 393.
Cod. Tit.

Señ. 5.

any Nation, then *Christians ad Lethes*; the Christians as the cause of this must be exposed to Wild Beasts: at least when the Scepter became Christian, and no Authority would encourage this Injustice and Cruelty, all must be imputed to the Sacrilege of them. For, when the Empire laboured under its owil Weight, and the Barbarous Nations (as all things through vicissitude of Affairs are subject to mutation) broke in and made Havock of the Provinces. When the City which had been lately Mistress of the World became subject to their Insults and Impetuosity; all this alteration the Pagans with vocation attributed to a fancied provoking guilt and enormity of Christianity it self, which they thought could not be expiated but by such miseries and devastations. And herein the fawcy Impudence of the *Ethnick* both Writers and others cannot but be admired; how daring they were, and what Designs they drove, (even contrary to this Law) to reproach the Persons and Governments of the Emperors. For no other thing did *Eusepius* aim at in writing his *Chronica*; nor *Zosimus* in the compofure of his History as we hope we have sufficiently made out already, and more shall do, as also the egregious malice vented by others against all these eminent Princes of the Christian perfwasion.

17. But their Choler was the more moved, and they found more pretence to vent it from things which fell out at this very time. For the year before, *Theodosius* had absolutely prohibited the Pagan Worship to be exercised by any Person, or in any place throughout the East; of which in its proper place more largely. Then upon a secular account and in reference to civil matters we may find by *Zosimus* what his Friends, the *Ethnick*, talked and objected against the Administration of this Prince, as that the Form of the Army and Military matters was changed, more great Officers made than formerly, and thence extraordinary Tributes exacted, that Barbarians were received and much favoured, and great discourse there was of the Tyranny and Oppression of his great Ministers, as *Rufinus*, against whom was objected the fall of *Tatianus*, and the death of *Procullus* his Son. But besides these general pretences, what the Particular or Immediate Cause of the making of this Law should be, is capable of further Inquiry. Some think this to have been his Act of Grace or Indemnity granted to the *Antiochians* after the defacing of his Images and the Reconciliation made in that manner, and by that means we have formerly declared. And indeed the obscurity which is to be found in most Writers as to the time of this Tumult at *Antioch* renders their Opinion very excusable, for though *Zosimus* relates it as happening about the time of the Expedition against *Maximus*, yet others have cast it back to the later undertaking of *Theodosius* against *Eugenius*. Moreover, the Argument of the Law might encourage one to such like thoughts, it being of Speeches or Reproaches cast out against the Prince, which *Zosimus*, *Libanius* and others affirm to have been the Crime, in a great measure, of them of *Antioch*, who followed therein the ordinary Humour and Genius of their City. Besides, by what this Law speaks of weighing the Speeches according to the Quality or Condition of the Parties, one may very well Collect that there were several sorts of Offenders in this kind; and *Libanius* relates how the *Comes* of the *East*, or some other Officer put many to death after the tumult at *Antioch*, one accusing another, without any respect had to Sexes or Persons; then what Arguments or Reasons the Emperor gave for exercising his Clemency; in this Edict, are just the same with what the Medifiers sent from that City, *viz.* *Flavianus*, and *Libanius*, do use in moving him to Compassion toward that miserable People. Again the very function of the Law might seem to conclude for this perfwasion, therein he commanding that Relation be made to himself concerning the whole matter of complaint, which was the great thing desired as we have seen, and by the great labours of Religious Persons, at length, (by prevailing upon the Judges, *Cesarinus* and *Ellethius*) brought about, *Theodosius* grieving afterward, that in the Interval any Persons had been put to death. Hereupon it may seem probable also that the Indulgence commended so much by *Libanius*, and particularly to the Court of *Antioch*, is the very same with that contained in another Law, which together with this made up one and the same Constitution. The last thing is the Place whence this Constitution bears Date, *viz.* *Constantinople*, whither *Flavianus* and *Libanius* were sent to him.

18. But, for all this, the Tumult at *Antioch* hapned almost seven years before, and therefore this Law could not be made to answer that occasion. For it fell out in the Decennalia of *Theodosius* and the Quinquennalia of *Arcadius* his Son, when he was at *Constantinople*, after the subduing of the Barbarians or *Grutburgs*: af-

Vid. Gualfr.
in li. 1.

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ter the death of *Flaccilla*, when only one Son of *Theodosius* was *Augustus*, and when he made preparations for his Expedition against the Ulfurper *Maximus*. Then, besides, it fell out in the Winter season before *Leut* 3; and *Chriſtoſom* faith that the Pardon granted to the *Antiochians* was with them before *Eaſter*, and therefore this our Law could not be it, which is dated on the ninth of *Auguſt*, and is inſcribed to *Rufinus*, as *Præfeſtus Prætorio*; whereas there was no ſuch *Præfeſt* that had any thing to do in the *Antiochian* Tumult, which therefore fell out in the year CCCLXXXVII. as we have already ſet it. Some others aſſign as an occaſion of this Law what *Sozomen* writes concerning a Perſon *Illuſtrius* by Dignity, condemned by *Gratian*, for having reviled him, and freed by the intervention of *Ambroſe* the Biſhop of *Milan*; but very wide, as if this had been made by *Gratian*, dead long before, and of which *Theodoſius* was the Author. *Gothofred* rejecting theſe ſeveral opinions, from the Law lately ſpoke of, which with this is rational thought to have made up one Conſtitution, conjectures that the immediate occaſion proceeded from the licentious liberty of the *Curiales*, at this time taken (and probably by thoſe of *Antioch*) to ſpeak againſt the Emperor and his Government. For although that Law be not at all of this Drift or Deſign, yet they being directed to the ſame Perſon at the ſame time, nay making up one and the ſame Conſtitution, and the one being made for rectifying matters belonging to the *Curiales*, he concludes with ſome Reaſon, that they were the Perſons aimed at in both. For indeed the *Curiales* were the ſubſtantial Inhabitants of Cities and Towns, and of them the Body of the Commons of the Empire conſiſted; below them were ſuch perſons as the neceſſity of their Eſtates and Conditions rendered them inconſiderable, and above were the *Honorati*, who had diſcharged great Offices, and thoſe who were in actual poſſeſſion of them. Now, to put them into this ſawcy and Tumultuous Humour, ſome of the foregoing things which they eſteemed Grievances might give occaſion. As the rigorous ſuppreſſion of Paganism now carried on; the greatneſs of *Rufinus*, who probably afforded too much occaſion for Envy; his proceedings againſt *Tatianus* and his Son; or poſſibly, there were ſome Aſts of *Tatianus* and *Proculus* which were too ſevere in Correcting the Pecuſtury of the Tongues of the *Curiales*, and upon ſuggeſtion of *Rufinus*, they ſeemed fit to be Repealed, and the like for the time to come Reftrained, as we ſee ſeveral of their Orders and Methods in Proceedings were nulled. Whatever the Occaſion was, he thought fit to refrain the Violence of the Judges, who often would be double diligent, and buſie in puniſhing ſuch like Offences, thereby to ingratiate themſelves with the Emperor. He doth not ſay that they ſhould be wholly neglected and paſſed by, as ſome have erroneouſly concluded; but the whole matter related to himſelf, who thereupon no doubt would proceed with that great Prudence he hints at, in weighing the Sayings of men by their Perſons, Qualities and Conditions; and according to thoſe three Aſts of Clemency, *viz.* *Contempt*, *Pity* and *Pardon* (or *Indulgence*) which he oppoſeth againſt ſo many Originals or Sources of this Opprobrious Language.

Laws for ſilencing
up Corporations.

19. However the *Curiales* behaved themſelves at this time, it appears that the *Curie* in the *East* were much Exhausted by ſome means or other; for in the ſpace of one year and an half, beſides the Law lately mentioned, as part of this Conſtitution, were five others directed to this *Rufinus* for filling them up, by recalling their Members from other Employments to which they had betaken themſelves. Beſides, in this now named Law, he Commands that ſuch Inhabitants and thoſe they termed *Vacantes*, or were not joyned to any other Body, ſhall alſo be forced to theſe Services, provided they be fit Perſons, having ſufficient Eſtates, which *Valentinian* the Third afterward limited to the Value of three hundred *Solidi* at leaſt, permitting others to be made Clerks. But *Theodoſius* forbids that any one be obliged only for this Reaſon, That his Mother was deſcended from a *Curia*; ſo that the Privilege granted formerly by *Julian* to the *Antiochians*, ſeems abrogated by this Law: but the Reaſon he gives for it is this general one, That no man can be obliged to any Condition or Service, by relation to that Perſon which it ſelf is free or not obnoxious to it, as the Mother was not. But not only were theſe Senates of the City Empty at this time, but the Senators of *Conſtantinople*, many of them, ſo indigent, that the Senate it ſelf taking their Caſe into Conſideration, made a *Senatusconſultum* thereupon, That ſuch Senators as could not pay that which they called *Glebalis Collatio*, ſhould be answerable for ſeven *Solidi* yearly for their Portion or Share. If they thought fit to pay it, then they might continue in their Station, or elſe they muſt relinquish the Dignity, which

Theodoſius

A.D.

393.

L. 137. de
Testam. Cod.
78.L. 4. de Sena-
torib. & de
Glebalis, &c.
C. de Sena-
torib. P. 1.
Sect. 10.

Sect. 5.

Theodoſius adds to the *Senatusconſultum*, as the Cuſtom was in this Age for Emperors to confirm theſe Decrees of the Senate, to Corroborate them, and to add what Penalty they thought fit. This now was thought reaſonable in the Eaſtern Parts; whereas in the Weſt, the payment of two *Solidi* ſeemed enough for the Senators of loweſt Fortunes; but to *Theodoſius* intended both to gratify Senators of loweſt Eſtates, and yet exact what to him ſeemed ſomething agreeable to the Dignity of the Place. But as the Condition of theſe ſeveral Bodies now mentioned ſeem at this time Impaired; ſo that of the *Navicularii* alſo was in no good Eſtate, ſome complaining that they were too poor to undergo the Function, and others pretending, that by reaſon of their Original they were not obliged to the Service. The whole ſtate of the Matter did now *Theodoſius* refer to the moſt approved *Honorati* in every Province for Wiſdom and Fidelity. But becauſe they might alſo be concerned themſelves; (out of whom the Body of the *Navicularii* by ſome Laws were to be ſupplied) therefore in this Matter alſo he requires, that their Judgment herein be reported to himſelf, the beſt Courſe to keep Judges firm to the Rules of Prudence and Moderation. But for the Incouragement of ſuch as ſhould be continued in the Service, wherein the Maintenance of the City of *Conſtantinople* was ſo much concerned, he declared by another Edict directed, as the other to *Rufinus*, that the *Navicularii*, and they only, ſhould be freed from the *Veſtigalia*, or Cuſtoms ariſing from Merchandize Imported: And all other Merchants, whatſoever, (though ſome of the *Veterani* and *Clerici*, were otherwiſe, by ſome Laws, excuſed) ſhould be obliged to thoſe Duties, without any Exception.

Another for
the Navicularii.L. 22. de Naviculario Cod.
70. Inst. 3.
Nov. Sept. 4.
C. de Cod. 78.L. 23. iſt. de
H. Inst. 3.
H. Decret.
C. de Cod. 78.

20. The CCCXCIV. Year of Our Lord had for Conſuls *Arcadius* *Augustus* the third time, and *Honorius* *Augustus* the ſecond. *Rufinus* ſtill continued *Præfeſtus Prætorio* of the *East*; and one *Herodes* was Proconſul of *Africa*, being Succeeded the following Year by one *Theodorus*. All this Winter was, as well as the preceding Year, ſpent by *Theodoſius* in Preparation for the War, for which by this time he was fully ready. As a Chriſtian, he made uſe of the Means which True Religion directeth to, for accompliſhment of that End he juſtly deſigned; while his Enemy in the Weſtern Parts applied himſelf to Paganish Superſtitious and Vanities, by Perſwaſion, of *Flavianus* the *Præfeſt*, who being of Ethnick Perſwaſion, promiſed himſelf great Matters for Propagation of that Impiety, which now ſo faſt fell to the ground, before the Power of Truth. *Arbogaeſtes* in the mean time having ſecured *Gall*, proteſtured his old Grudges againſt thoſe of his own Nation; particularly *Suno* and *Marcomeres*. Two *Subreguli* of the *Franks*, whom having now the Power of the Weſtern Empire in his Hands, he reſolved to Sacrifice to the Ghoſts of his Anceſtors. For this Purpoſe, in the depth of that Winter which followed the Death of *Valentinian*, he removed to *Agrippina*, or *Coleigne*, with Reſolution to range over the moſt inward Reſces of the Country then inhabited by the *Franks*, at ſuch time as the Woods being dry and without Leaves, could not afford lurking Holes or Receſſes for any Ambuſcades. He paſſed the *Rhine*, and waſted the *Brutieri*, that lay next the River with a Village called *Actia*, inhabited by ſome of the *Chamani*, without any Oppoſition, ſave that ſome few of the *Ampſivarii* and *Chatti* ſhewed themſelves on the farther Hills, being led by the late mentioned *Marcomeres*. The next Year preceeding that whereof now we write, *Eugenius* (or *Arbogaeſtes* for him) was mightily inflamed with a Deſire of Yoaking *Italy* in the ſame Bondage with *Gall*, not remembering how *Maximus* his Predeceſſor (as we may term him) ſired in the ſame Attempt: but *Flavianus* his *Præfeſt*, a Man given up to Pagan Prophecies, puffd him up with hope of Victory. Before he ſhould begin his Journey, he concluded, that the *Germani*, whom he was to leave at his Back, were to be obliged to terms of a Fair Underſtanding, left, in his Abſence, they ſhould paſs the *Rhine*, and harraſſe *Gall*. He Marched to the River, and on the Bank thereof ſhewed himſelf with great Numbers of Men he had newly raiſed, to the Nations of the *Franks* and *Alamanni*; and by the Terror thereof drew them to renew the League. This, ſo well performed, he returned, and with *Arbogaeſtes* invaded *Italy*; which after his Entrance into *Milan*, he eaſily got into his Power.

Eugenius gets
Italy into his
Power.A.D.
394.
Arcadius 3.
Honorio 2.
A. A. Cof.Sigen. 426
174.

4. *Theodoſius* having Intelligence hereof reſolved to ſet himſelf, with all Convenience, againſt ſuch Tyranny and Uſurpation; and for this Purpoſe cauſed all the Forces he had raiſed to Muſter at *Conſtantinople*; amongst which were Multitudes of *Goths*, *Alani* and *Hunni*. For his Chief Officers, he made choice of *Timachus* to Command the *Romans*, together with *Stilicho*, or *Stelicho*, as *Zozimus* calls him, who Writes, That he was Married to *Servus*, *Theodoſius* his Brothers Daugh-

A.D.
394.

Sect. 5.

The Emperor
prepares to go
against him.

ter. The Barbarians he Committed to the Leading of *Gaius*, *Sander*, and *Bacurius* an *Armenian* Born, one of Honest Principles, and well Skill'd in Martial Affairs. Amongst the Officers of the *Goths*, *Alarich* now Served, that Famous *Alarich* that afterwards took *Rome*, and first of others brought the *Barbarians* to Invade *Italy*. Having thus Prepared for his Expedition, *Zosimus* tells us, That his Wife *Galla* died in Childhood, when he was ready to set forward, whom having once bemoaned after *Homer's* manner, he departed. But *Arcadius* his Son, whom he had formerly declared Emperor, he left behind him; and because he was but Young, he Committed him to the Charge of *Rufinus*, who was now to Govern all Matters according to his own Will, and Appetite. As to the Time when *Theodosius* began his March, we find by the Dates of several Laws, that in the Months of *January*, *February*, and *March*, he was still at *Constantinople*, where, while he continued, by his Endeavours for True Religion, and the removing of Grievances from his People, he Exercised himself as became one who was about such an Undertaking, wherein the Safety of the State, and his own Person and Family was concerned. But certain Customs there were of those Times, to which he could not but submit; some things which could not so well be amended. The Empire was so great, the Provinces so many, and so Manifold the Business arising out of them, that besides the ordinary and set Ways and Courts of Administering Justice by his Officers, there was a Necessity of his being instructed and moved by those about him in Particular Concernments of Private Persons and Bodies Politick. Those that thus Solicited and Moved, were termed in this Age *Suffragatores*, and their Solicitation or Moving *Suffragium*, for which they were wont to receive Rewards, and that by Agreement from their Clients. Hereupon much Oppression and Contentions often happened, while sometimes those that had obtained their Desires, and done their Business, were ingrateful to them that had employed their Time and Labour therein, and often, they that Solicited in their behalf, threatened, troubled, and exacted more, than was just and reasonable, from the Suitors.

22. To prevent these Disorders, he published now an Edict, inscribed to *Rufinus*, before his departing from *Constantinople*; wherein he Ordains, in Case such a Promise have been made, of what force it shall be, and what Action it shall produce. In the first place he declares, That such Agreements shall be performed, and he grants Cause of Action against those that had so engaged themselves, otherwise than what *Julian* formerly Ordained concerning such as procured Persons to solicit for Honours to be conferred on them, and promised Rewards for obtaining the thing desired, that if those that Solicited had already got into their Hands the Fee or Reward they might keep it; but otherwise no Liberty to Sue would he grant. But this Indulgence he would have only extended to such as had obtained what they went about. And in Case the Party had agreed to give any thing Moveable, as Money, an Horse, or other Things, the Delivery of the Thing should suffice to alter the Propriety in it, without the Intervention of any Writing, or any Publick Record to be made thereupon. But in Case any Thing Immoveable, as Land lying in City or Country; then for changing the Propriety, he requires Three Things: First, That it be done by Writing, as is requisite in other Matters of Consequence; then that there be a real Delivery of Possession; and in the last Place, That the Matter be Registered or Attested by Publick Acts: otherwise if any of these Solemnities be wanting, there shall be no transferring of the Dominion, or, as we say, the Propriety in the Thing; as in other Cases, all are null and void, which are not transacted in the Essentiall Forme prescribed by the Laws. And good Reason there was, that Lands and Inheritances should not be transferred without these Conditions, lest Persons distressed, when they had Business at Court, should, by the greedy Courtiers, be drawn in, and cheated of their Estates, who would often, out of Covetousness, promise to do what they could not, or ought not to attempt, or would not be worth what they so greedily desired in way of Recompence for the Undertaking. On the other side, a Concurrence of all these Circumstances would shew, that the Agreement was transacted bona fide, without any Cheat, or Circumvention. In the last Place, the Emperor declares, That in Case the Party had by a Writing called in those Days *Communitorium*, (wherein he expressed his Desire to have the Thing done, and promised to give so much in Reward) obliged himself to such and such Terms; if hereupon upon any Lands or Immoveables, he should be Outed again of such Possession, as guilty of Rashness and Violence, and the Thing be restored to its former Owner, the Inva-

L. 2. Si con-
tempnator
Suffragii.
Cod. Th. lib.
2. tit. 59. Dat.
4. Nov. Alex.
lib. 1. cap. 1.
L. 1. an. cod.
Juli. tit. 10.
Suffragii.

Sect. 5.

He Marches.

He Breaks in-
to Italy.

der being excluded from any Claim or Suit for that Thing for which he sought, without being his own Judge, in a fair way to have proceeded.

23. Now to attend *Theodosius* on his Journey Westward, on the Thirteenth of *May*, we find him at *Heraclea*, by the Date of a certain Law, whereby he forbids, That any Officials belonging to any *Consularis* (as of *Palestine* or *Phenice*) taken from out of the Office of the *Comes* (of the East) or out of that of *Rufinus*, to whom he gives the Title of *Caluren vestrum*, be suffered to fly, and betake themselves to the Army. From *Heraclea* he removed to *Hadrianople*, where he lay on the Seventeenth of *June*, as appears by another Edict of Religious Concernment, not in this Place to be meddled with. Henceforth we cannot trace him by any Dates of Laws, there being none Extant that after this time can be attributed unto him. But from *Thrace* he moved into *Pannonia*, while, in the mean time, *Eugenius*, encouraged by the South-sayings of *Flavianus*, who promised him Victory, which should be accompanied with the Ruine of Christian Religion, being aware of his coming, got together a vast Body of Men. Relolving to expect him rather at the Threshold, than within the Bowels of *Italy*, he quitted *Milan*, together with *Arbogastes* and *Flavianus*, affirming by Oath, That when he came back, he would make a Stable of the great Church, and cause the Clerks thereof to take Arms. Proceeding as far as *Aquileia*, he came and incamped himself by a River called *Frigidus*, distant some Thirty Miles from that City, and as *Sozomen* writes, he seized and secured the *Juhar Alps*, being the Gates of *Italy*, as affording but one Passage, Fortified on both sides by vast Rocks and Mountains. *Theodosius* from *Pannonia* marched directly to these Straits, and driving out the Guards set to defend them, quite contrary to the Expectation of the Enemy, brake through, *Flavianus* here dying, when he might have escaped, as by mistake some write. Having without much trouble passed the Mountain, on the Seventh of *September*, he descended into the Plain, and offered Battel, which was as readily accepted, the Soldiers on both sides being inflamed with a Desire of Fighting. *Theodosius* Erected the Standard of our *Saviour*, and *Eugenius* that of *Hercules*. The Emperor disposed his Army into two Battalions, in the one of which stood the *Romans*, and in the other, such *Barbarians* as had come over to his Service. The *Romans* against *Romans* fought Manfully, and the Success was doubtful; but the *Barbarians* on the Emperors side were worsted, and forced to retire with great Slaughter; and besides, aloof on a Hill, he discovered a Body of Men, which he apprehended might fall down upon his Back.

24. Being in such Straights as he knew not how to extricate himself, he fell down on his Knees at the Head of the Army, and humbly Implored the Assistance of his Maker, saying, *Help me O Lord I beseech thee, lest the Pagans say, where is now the God of Theodosius*. And his Prayer had a speedy Return. For presently the Officers of that Party, which he saw upon the Mountain, sent to him, and offered to come in upon Honourable Terms of being preferred by him, which he readily granted, and having neither Ink nor Paper at Hand, he took a Writing Table from some there present, and therein promised, that they should have the Command of those Forces they should bring over to him. Hereupon out of Hand they joyined with him; but still the Event seemed very dubious, till *Bacurius*, who commanded the *Barbarians* that were disadvantageously engaged, stirred up his own Spirits, and the Courage of his Followers to such a Degree, that falling on with greater Violence, and renewing the Fight, they either killed, or forced to run, those with whom they were engaged. In other Places however, the Enemy stood his Ground, and *Eugenius*, for whom they fought, riding up and down, exhorted them to Constancy as secure of the Day, telling them he was well assured, that *Theodosius*, out of desperation, would speedily lay violent hands upon himself; but he desired they would not let him so escape, but bring him alive into his Presence. Now arose a most violent Tempest, such as no Man alive could remember, which drove with that violence upon the Army of the Usurper, that they could not keep themselves in order. It's reported, That the Arrows they let fly against *Theodosius* his Men, were retorted back upon those that shot them; that their Targets were forced out of their Hands, and driven against their own Faces, and their Eyes so disturbed with Wind and Dust, that their Sight was thereby taken from them. On the other hand, such Darts or Arrows as *Theodosius* his Soldiers Shot, did double Execution, whereby Animated to go high a Measure as the Matter suggested, with all Alacrity they improved the Advantage, and so far prevailed upon the Discouraged Enemy, as quickly to put them to the Rout. *Sozomen*, *Orosius*, and others, relate

Defence him
in Battel.A.D.
394.L. 18. de co-
muni lib. cod.
Th. tit. 3.
K. 1. Jan. A.
et 1. de lib. J. p.
L. 23. de He-
retica cod. Th.Lib. 7. c. c.
22. & 24.

Sect. 5.

Theodosius
dies.

28. The CCCXCV. Year of Our Lord had for Consuls *Sex. Anicius Olybrius* *AD.*
Hermogenes, and *Sex. Anicius Probinus*. *Rufinus* still continued *Præfatus* *395.*
Prætor of the East, *Dexter* bore this Office in Italy, and *Theodorus* over Gall. *Theodosius*
odolius now was thinking of his Journey Eastward, purposing to return speedily
to *Constantinople*, but was arrested by Death before he could accomplish such Pre-
parations. And upon the Departure of so great a Soul, several Accidents hap-
pened, which were reputed as Prefaging such a loss. For betwixt the Victory, and
his Death, from the Month of September, some Countries were shaken with Earth-
quakes, excessive Rains fell, and so great Darknes happened, as ordinarily had not
been observed. But let us hear what *Zosimus* tells of him at parting, after the Battel
fought with *Eugenius*. "Things, saith he, having thus succeeded, *Theodosius*,
being now at *Rome*, Declareth *Honorius* his Son Emperor; *Stilicho* being
made Commander of the Legions in these Parts, and withall assigned Tutor to
this his Son. Now did he call the Senate to him, which was fixt and constant to
the Religion and Rites of their Fore-fathers, neither could hitherto be prevailed
with to consent to such things as had been done in Contempt of the Gods. He
made a Speech to them, wherein he advised them to Correct their former Error,
(for so he termed it) and to embrace the Faith of the Christians, which promi-
sed to his Followers Freedom or Indemnity from all Sin and Impiety. But none
of them being willing to admit of what he propounded, nor to depart from the
Rites of their Ancestors, which had been derived down to them from the first O-
riginal of the City; and before them to prefer such an Assent as was void of Rea-
son, (for they alleged, that for almost One Thousand and Two Hundred Years,
in the Observation of those Rites, they had Inhabited an Invincible City; and if
they should change them for others, they were ignorant what might happen.)
he then said, that his Exchequer was burthened with the Expence that was made
upon Sacrifices and Offerings; and therefore he would abolish such Matters, for-
asmuch as he neither could approve of such Things, and knew for certain, that
the Necessities of the Armies required a far greater Expence. The Senate an-
swered, That Sacrifices could not rightly be made, but at the publick Expence;
yet notwithstanding the Law for such things was abolished, and other were things
suffered to lie neglected, even whatsoever had been transmitted from their Ancestors;
and thereupon the *Roman Empire*, by little and little was diminished, and became
the Home, or Abiding Place of *Barbarians*; or rather having lost all its own Inhabi-
tants, was now (in his time) reduced to that Condition, that not so much as the
Places where Cities once stood could be discerned. That so Matters stand, the
following Narration in Particulars shall demonstrate. But the Emperor *Theodo-*
sius having delivered Italy, Spain, Gall, and besides, all *Africke*, to his Son *Hono-*
rius, died in his way to *Constantinople*; and his Body, being duly Prepared,
was Buried with his Predecessors, in the Burying-Place of the Emperors, at
Constantinople.

The time of
his Death.The Dirt cast
upon him by
Zosimus.

29. As he began, so he ended, in the Opinion of *Zosimus*, an Enemy to the
Gods, and the Religion of his Fore-fathers; and how can any imagine, but such an
Irreligious Person should also be Luxurious, Effeminate, Sluggish, and what not?
to make him up a Compleat Monster? But before we take a view of his Features in
this kind, we must first declare, that he died at *Milan*, after his Son *Honorius* his
Arrival from *Constantinople*, on the sixteenth day of *January*, when he had Reigned
sixteen Years wanting a day or two, in the fiftieth Year of his Age, as some have
reckoned, in the sixtieth, as others, and as some, most improbably, in the fifty fifth.
With what Character *Zosimus* hath set him forth, we have already sufficiently seen,
viz. as one given up to all Vices of Luxury, to his Belly, and his Ease. These Vi-
ces of his Temper caused other disorders in the State. For thence came it to pass,
that to please his Appetite, he maintained a great Number of Cooks, Butlers, and
such like, about him. This vast Expence, and his Profuseness to unworthy Persons,
emptied his Coffers so much, that to fill them again he took up bafe and unworthy
Courses; one in particular, than which nothing could be more disadvantageous to
the Empire; which was selling Places of Magistracy, and Governments of Pro-
vinces, to such as would give most for them; so that one might see in the *Forum*
those who had followed bafe Trades and Professions to wear the Ensigns of Autho-
rity, and deliver up the Provinces to such at would give the best Penny worth. In
Conclusion, as hereby he ruined the Civil Government, so did he the Military, in
making for many *Magistri Militum*, and other great Officers; for finding of Pay
and Provisions for whom, the People were also miserably harraled. This is the sum
of

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Wiped off by
the faster Te-
limonies of
other Pagans.

As Patulus.

Who infits
on his Gifts of
Fortune.And in these
Indiscrements
of his mind.What he did
together with
his Father.

of that Infamy wherewith *Zosimus* designed the memory of *Theodosius* to be
loaded.

30. In a scrutiny into which we shall proceed in no other terms, than we did in the
matter relating to *Constantine*, and search for naked truth without any partiality; for
the finding out of which, nothing can be more convenient, than to hear the Testimo-
nies of other Persons, who had as much reason to be prejudiced against him, upon
the Account of Religion, as *Zosimus* had. We shall not repeat those great things that
are said of him by *Pacatus* the *Panegyrist*, of which we have already given an Ac-
count upon his Conquest of *Maximus*, but take notice that before he comes to the
Defeat of that Tyrant (which was the occasion of his Speech,) he premitteth
other things in his Commendation. He begins with his Country, which was
Spain, and commending it for its Fertility in Fruits, especially in producing so
great Persons, as were *Trajan* and *Hadrian*, he magnifies it most in bestowing
him upon the *Roman Empire*. From his Country he comes to his Family, and
affirms that, if others had Surnames given them from the Nations which they had
Conquered, his Father *Theodosius* might well be rendered Famous to Posterity
by those of *Saxonicus*, *Sarmaticus* and *Alamanicus*, having beaten these several Peo-
ple, as well as forced back the *Scots* into their own Fens. Herein he asserts the
Nobility of the Person to whom he speaks, that He was the Son of him who
ought to have been Emperor, who would not have lessened but suited the Gran-
deur of the *Roman* Dominion, not only by his Valour and Conduct, but also by
the Stateliness and Dignity of his Person. And he no less commends him the
Son, for the greatness of his Preference and Personage, as being answerable to his
Fortune; inasmuch that he affirms it a Question made by them who saw him,
whether they were more won upon by the Vertue and Goodness of his Mind,
or the charmings of his Countenance. He tells them that he knows how, not
long since, he had rejected such Commendations as this: But he intreats him to
permit that this may make up but a part of his, which was wont to continue
the whole of that praise which was given to others. It's true, his Virtue deserved
an Empire; but withall, his Beauty and Comeliness, added her suffrage also with
that of Virtue. Virtue made it befoveful that He should Reign, but his shape
and Stature rendered it decent that he should do so. And indeed, in declaring
him Emperor, so far was any thing from being omitted which should be consider-
ed of; that a respect to his years was also had, a thing of such Importance with
their Ancestors, that in bestowing not only the greatest places of Magistracy,
but also those of *Pretor* and *Ædilis*, a Persons age was inquired into; neither
was any man (ordinarily) preferred for his Nobility, for Favour or Reward, to
such Offices, before the terms prescribed by the Comitial Law. And with good
reason. For such as will by Virtue be Adopted in the slippery time of Youth, do
stumble to prevent falling. He instanceth in *Sulla*, *Catulus* and *Scipio*, who by
Luxury made Shipwrack of Virtue, and being tossed by the Tempest of Vice,
were through mature Age scarcely rescued from the Peril of Drowning.

31. But these things were but the gifts of Fortune; he tells him he will now
descend to such as he ought to himself. For, that glory which he had formerly ob-
tained by Martial Acts, performed with so much toil were not to be ascribed
unto her who was worthy of reprehension in this respect, that whom she had desti-
nated to a Scepter and a Throne, she never used with any manner of Indulgence.
But as severe Fathers are sharper with those Sons they most love, so she trained
him up in many Wars, and difficult times that the might fit him by such prepa-
rations for the Empire. Before he would come to speak of what he had done
in mature Age he saith he would touch at what he performed jointly with his
Father, *viz.* that with him he passed over Winters under Skins, or Tents, sweated out
Summers in the toils of War; either by Watching or Fighting spent both Nights
and Days, and fought battels of great Consequence both by Sea and Land. Then
when by reason of a potent Adversary he returned to a private life in *Spain*, he
enumerates in how many several sorts of labours he busied himself, for the Relief
of his Friends and Neighbours, and his own Exercise, with as great Commenda-
tions, as the *Curii*, *Corneii* and *Fabritii*, betook themselves to their Manual
works when disengaged from Affairs of the State; and in this respect with grea-
ter praise; for they did it out of Want and Poverty; which pretence lay not
at all upon him. For, Poverty diminisheth the Honour due to Patience in la-
bour; and that Labour is of greatest Example which is performed without Necessi-
ty. As the Heavens are in perpetual motion; and all things are preserved and
perfected.

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Sec. 5. perfected by a constant Revolution, so had he been exercised without intermission in one kind of Employment or other, from Spain to Sarmatia, from Illyria to Africa. And when he had arrived at those years and such a standing in the Military Profession, as might have excused him from taking such pains; yet did he not when he might only have commanded, divide his time betwixt Business and Idleness; and slacken his Industry as one who would live upon that Honour and Reputation he had already got. But he would either in the first place, or to be sure with the first, discharge all Duties belonging to a Souldier; stand Sentinel, Scout and Watch when occasion served; and as his lot fell, toil at the Fortifications; anticipate the Enemy in the choice of Ground; order the Camp; first begin the Fight and come last from it: in conclusion, in Council and Advice demean himself as a Captain, and by Example as a Souldier; so that even then at that time it might have been understood, that others fought for the Emperor but he for himself. Yet this was most to be admired, that whereas he so demeaned himself in every thing, that it was behooful he should Reign, yet with design that he might Reign he never did any thing at all.

His modesty
to the Emper-
or.

32. As evidence for this he alleageth and instanteth in that Day that was eminent for the Publick Good it brought along with it, wherein when he was called to undertake the Government, he endeavoured to shun that Empire which was offered him: neither did he this only in show, that he might seem to be forced unto it, but earnestly and long; and as one that had hope to prevail. Neither was there any cause of Diffimulation. For the Emperor, he tells him, did not sit upon him at home, and when none were present as to try him, but publicly and in the Court or Comitium, when he could do nothing else; so that except he had indeed and in reality been unwilling to accept, he might have done it Securely and with Reputation enough. Here the Panegyrist personates the Commonwealth, which, now frustrated of that hope he had conceived of him, by his backwardness to the Promotion, he introduceth thus speaking to him: *Thinkst thou, O Theodosius, that the Fates have been so little tardy thinkers, that thou also endeavourst to increase thy Delays? Art thou ignorant that thereby thine own Concernments are impaired? Knowest thou not that thou thyself art introduced in my Decays? Whatsoever the Goth doth waste, whatsoever the Hunn doth ravously snatch, whatsoever the Alan takes away, that in time to come will be missed by Arcadius. I unfortunately have lost Pannonia, I now mourn for the Destruction of Illyricum, and daily behold the Ruine of Gall. The Elder of the Emperors is not sufficient of himself to undertake and manage so great Wars: the Younger, though he is like to prove most Valiant, yet at present is in his Minority. Dost thou stick at erecting and supporting me these sails, which, that thou maiest not defer thee assistance, cannot but be late enough performed. Dost thou thus require me, who no desired thee for my Prince, when in a happy Condition? When peaceable Nerva, Titus the Love and Delights of Mankind, and Antoninus, memorable for his Piety, were possessed of me; when Augustus adorned me with Walls, Hadrian instructed me by his Laws, and Trajan added to my Bounds and Limits, I did not think myself happy, because, as yet I was not thine. What wouldst thou do to me if thou wast in thine own Power? Behold, he who is my Lord intreats thee; behold, he who is yet thy Lord and Master beseecheth thee, and he who may compel, yet chuseth rather to request. It is now as unlawful for thee to refuse that Sovereignty which is conferred upon thee by an Emperor, as it would have been wicked to have accepted it without him.*

33. Thou only, O Prince, thou only, (thus he proceedeth) of all that have hitherto Reigned, hast made thyself a Prince indeed. Some the purchased suffrages of the Legions, others the vacancy of the Court, and others Royal Affinity have imposed upon the Commonwealth: thee neither Ambitions seeking, nor Occasion, nor Kindred have created; for thou wast a stranger to the Emperors Family, and wast made the third in order, and being averse wast compelled to it, I say averse. Hear you this you publick Parricides, who forgetting your Faith and Allegiance, have taken the Scepters of your Masters, and by no less dangerous wickedness, setting your Lives at Stake for the Empire, have purchased a Royal Name with the price of Blood. Here the Sovereignty it self hath suffered a repulse, and one hath appeared candidate that he might not be elected. Will future Ages believe this, and give us glorious credit in this matter, that in ours such a thing hath been done, which in no times before or after hath been attempted, nor is like to find any Example? But he who shall understand the course

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and manner of thy Life will easily give his assent, neither will doubt the Empire to have been refused by one that hath Reigned in such a manner. For, they, even they, may well desire, and that greedily, to Reign, who are delighted with a manner of life that's loosed from the restraints of Law's; whose cruelty in killing the Innocent, Covetousness in taking the Estates of private men, and a Lust to contaminate all honest things, required some Law and impunity to support them. What did it concern you to be Prince, who though Emperor was to be a private Person? except perhaps at this day you are more remiss in your love and respect to Modesty, less fearful to shed mans Blood, or have a greater Appetite after those things that belong to others. You are the same you were, and so much you can now do, as formerly by the Laws you might have done. You measure Sovereign Power by being in a condition to do good, not by security in finning. One thing your Advancement hath done for you, that now we are satisfied, that even under other Emperors you lived by the precepts of your own Laws. For He who doth nothing licentiously, when he can with impunity, never had a desire to do it.

His good Example when he had accepted it.

In temperance and abstinence.

34. As soon as you had undertaken the Government, not content to be in your own Person, beyond (or free from) Vice, you set your self to rectify and amend the vicious practices of others; and that by methods of moderation, that you might seem rather to persuade than compel them to honest courses. And because either by reason of a long custom in the East, or the remissions of former Princes, so great Luxury had infected many persons, that the Habitual wont of Wantonness, now grown strong, appeared as not easy to be amended by other Applications; that no man might think himself injured, You would begin your Censure upon your self, and by retrenching the Expenses of the Palace, not only by rejecting what was superfluous, but scarcely admitting of a necessary Allowance, that which is most difficult in nature you performed, making good men such as were willing now to be reduced. Would any be grieved to admit of such restraint as he sees his Prince impose upon himself, or think much to abate of his private Luxury when he beholds the Emperor, who hath all in his Power, the Lord both of Countries and Men, living sparingly and contentedly, satisfying his hunger and long fasting with mean and Souldierly fare? Besides, when he sees a Court, in every part of it with more hardship to be endured than the Gymnasia (or places of Exercise) of the Spartans; abounding with examples of Pain-taking, Patience and Frugality? When none therein is to be found, who shall dare to require as additional to this Royal manner of Diet, either the Fish of remote Shores, the Fowl of a foreign Air, or the Flowers that are not growing at the same time? These Delicate and Effeminate Princes, to which the Commonwealth was often forced to submit, never thought themselves splendidly served, except in Luxury they turned over the whole year; except Roses from in their Cups in Winter, except in Summer they corrected their Wine of Falernum, which they drank in capacious Gems, with cold Ice. Our world was too strait for the Throats of these men. For not measuring the goodness of the Dishes set before them by their Taste, but Expence; they were only satisfied with such Meats as were furnished either out of the utmost parts of the East; out of Colchus lying beyond the Roman Pale, or such Seas as are famous for Navigation, which the Perils of men fratched as it were from unwilling Nature, which parted not with them without Reluctancy. To say nothing of those Fowlers, who by an infamous sort of choice were inrolled in the Provinces; and those Cohorts, which under the Banners of Hunters served at Banquets; have we not heard of a Prince, that had not only his Dinners, but his Dishes of the value of an whole Patrimony of a man of Equestrian Degree? Your Meats, O Emperor, being more spare than those of Ordinary Tables, are only furnished with Provisions of Place and Time. Hence comes it to pass that all are ashamed of Luxury, and now a love and regard to Parsimony hath prevailed, and the Threats of Laws having nothing to work upon; every one hath repented in private. For so it is; so it comes to pass, an austere Command and Correction exaggerates; but pleasant and acceptable is that which proceeds from example.

35. Such Influence had this Conduct of yours upon the Manners and Courses of Men. But, yet nothing so much conducted to the rooting out of Vice and Implanting of Virtue, as this, that you constantly added your self to the society of those Persons whose practice ought to be imitated universally. To say nothing of those upon whom you light the very first day of your Promotion, Persons of such Virtue, that they might seem not taken out of the Crowd, but de-

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signedly

Seft. 5.
The good
Councillors
chose at his
first coming
in.

signedly chosen out of a multitude. Afterwards, how many, and how great, did you make choice of for the Government of Provinces, the chief Commands in the Armys, and for your Inward and Trusty Councillors? You having made two several Choices, the one out of Judgement, and the other as it Happened; it's uncertain whether your Widow, or your Fortune procured for you, the better men, having either received or found men of that worth and fineness, that the former deserved to be retained, and the later by all means to be chosen. But whatever Emperor was he that thought a strict observation of Friendship was reckoned amongst such things as commend a Prince? This virtue is low and humble, and it's doubtful indeed whether for a virtue it was formerly esteemed; whether worthy to enter into a Palace, or rather to be a Companion for Dangers. You might sooner procure money to be paid out of the Treasury, than any faithfulness out of an Emperors heart. The best of them all, it's true, would make rich his Attendants, but never love them; he knew well how to do them kindnesses, but was ignorant as to any Cordial Affection. You have not only recalled Friendship, formerly only a Name, and belonging unto private Persons, into the Courts; but being first clothed with Purple, and adorned with Gold and Precious Stones; have received it into the Throne it self, and in Deeds not Words only, have asserted, that *The mind of a Prince by so much ought to be the more frank, and kind to those about him, by how much his Fortune and Estate is more excellent than that of others.* You carry it to them with equal fidelity and command of your self's; and give that to your Familiars, which you your self would have desired when a private man. Yet how could any one have wished for those things which most have obtained in your Government? I speak not of those Honours which the Emperor is constrained to confer. Is any *Dux* created? The Discipline of the Camp requires it. Is any raised to the Dignity of *Præfekt*? The Province must have an Head. Is a *Consul* designed? The year must have a Characteristical Name. In those chiefest and most eminent Employments there is some Advantage made of these deserving Persons. You by a new way of Benignity, confer that Honour upon your Friends, which may be wholly their own; and nothing thence redounds to your self, but the pleasure of bestowing it; who having as Home Sons of your own, (these two Hopes and Eyes of the Commonwealth) yet deferred to nominate them, and adorned first your Friends with the Consulship. Now, truly, had that Divine man, the Author of the publick felicity, your Father, been alive, what more could he have expected from his Son, than to have been preferred before his Grandsons? You have therefore done for your Friends so much, that you could not have done more for your Father. O singular design of your kindness! That Dignity, which can receive no addition in Greatness, you augment by the timing of it. Your Friends are declared *Consuls* before your Sons; because more than *Consuls* they could not be.

His unparalleled friend-ship.

35. Having farther prosecuted this Argument, at length he tells him, that forasmuch as he can not confer Honours upon all with the same measure of Benignity (there being not place enough; what he had in his Power being of a narrower Size than his Will; and the Empire, how large soever, not being capacious enough to contain his Mind) yet, whom he hath not yet preferred, he comforts by his condescending carriage to them. And indeed some it seems have not been satisfied with this Consolation. One is honoured by being spoken to; another is made happy by being received at Tables; and another Consecrated (so he words it) by a Kiss; and so all, who have promised themselves something by your Government, have either arrived at Dignity, or been satisfied with your Humanity; Humanity I say; which is as Famous, as it is Rare in an Emperor. For Pride being the ordinary Attendant on Great men, scarcely is any to be found who abounds with Fortune, and wants Arrogance: of which our Ancestors were so impatient, that they ever esteemed Contempt more grievous than Service, and for this Reason were constrained, after they had had such Warriors as the *Tullii*, such Sacrificers as the *Numes*, and the *Romuli*, the Founders of the City, to hate the very Name of a Kingdom. In conclusion that *Tarquinius*, so much talked of, they Cursed and Abominated to all Eternity; and a man that was carried headlong with Lust and Self-will, blinded with Avarice, Cruel to a Wonder, and mad with Fury, they termed *Servulus* or Proud, and they thought that would convinced in it self sufficient Infamy and Reproach. But if possible it were, that *Bentus*, that alterer of *Romulus* Liberty, and Hater of Royalty, could return for a while to Life again, he would find this your Age filled with Love

His rare Clemency and good Nature.

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Love of, and Endeavours after, Virtue; Parsimony and Humanity; no appearance would he find in the whole World of Pride Lust or Cruelty: and you your self he would find contented to live both publicly and privately, as severely as any of the Ancient Captains; as Chaste as the *Pompeii's*; as Moderate as the *Cicilli*; and as Meekly and Familiarly as any *Client* or *Suitor*: He would change his Opinion, after so long a time: and finding the *Roman* Dignity and Liberty joyntly together: he must necessarily confess that they are now in a better Posture, than when he was Emperor, than they could have been when he was *Consul*; and that *Tarquinius* was to be removed, but not the Kingdom.

Easie of Access.

37. In the next place, he admires him for his extraordinary Condescension in shewing himself abroad, and receiving the Petitions and Requests of any that would make their Addresses to him. Whereas the Custom of former Princes was far otherwise, who imagined that Royal Majesty was diminished, and made cheap, except with great Veneration, being Cooped up within a private Apartment in the Palace, they were at a distance consulted, as in some *Vestal* place of Secrecie, being fortified by solitude, and by deep silence that was extended far and wide. Or if ever they came into the light, and beheld open Day, they were yet shut up in Litters and close Covers; and being Walled about with Files of Armed men, moved slowly, and as it were in certain Numbers, and counting all their steps: then was the People driven away; and the Hand of the Sergeant or Ulther was not idle in keeping off the Multitude with Rods; that *this secret thing might be in publick*. But this our Princefaith he, is exposed to every mans view, and it is as free to see him, as the Day or the Sun. And yet though things are so, and permitted, are apt to beget Avarice and surfeit, yet never doth he let his admiring Eyes: the sight of him is more and more desired; and (what is strange to be said) being present he is yet wanted. But can we wonder, that in your Cities you are seen by your own People, whom scarcely any Nation hath not seen upon its own ground, and that so often, that this Face is well known as much known to the *Barbarians* as to us. And no wonder, when as passing all Summers abroad, and Winters at home, you equally divide the year between your Enemies and your Subjects. Or if by chance there be any *Barbarians* who have not felt the force of your Valour, yet being struck speechless, as it were, by the terror of your Name, they are very quiet. For at the thoughts of your Arms, not only these several People do tremble which are separated from our World; either by great Woods, Rivers or Mountains; but they also, which Nature it self hath set at a distance, being inaccessible by perpetual Heats, continual Winters, or the interflowing Seas. The *Indian* is not safe by the Ocean, nor the *Bosporan* by Colds; nor the *Arab* by the intervention of the Sun; whither the *Roman* Name had formerly reached, the Empire now hath arrived. Shall I speak of the *Goths* received into service, both as Souldiers for your Camp, and sufficient Tilters for your Fields? Shall I mention how the rebellious *Syracens* have been punished for breaking the League? Shall I hint any thing concerning the *Scythians* being prohibited *Tents*, and the Bows of the flying *Albanian* now rendered ineffectual? Whatsoever Nation of the *Barbarians* was formerly troublesome by reason of its strength, fierceness or numbers, now thinks fit either to be quiet, or rejoices to serve under the Name of a Friend. *Persia* it self, formerly a Rival of our Commonwealth, and famous for the death of many *Roman* Captains, now excuseth by a Compliance, whatsoever formerly it acted severely against our Princes. Nay, that King, who once would not condescend to own himself a man, now confesseth that he is fearful; and Worships you in those Temples where in he himself is Worshipped; as well by pretending to send Ambassadors as by presents of Gems and Silk, and his triumphal Beasts do draw in your Chariot, Although as yet he is not a Confederate, yet already by courting of you he is become a Tributary.

38. After this *Pacatus* descends to the occasion of this present Congratulation; or his Expedition against *Maximus*, and extolls his Prudence, admirable Clemency, and Valour as we have already seen. Now though this be uttered with extraordinary Wit and with High and often Poetical Expressions in the presence of the Emperor, to which something is to be allowed, can any imagine he would be so insensible and so Brazen faced, as to extol him for temperance and abstemiousness, when all his Auditors knew him Infamous for the other extremes of Luxury, Effeminateness and Laziness? Would any Orator have admired *Nero* for his Clemency, or *Heliogabalus* for the severity of his life? But to leave him, we shall next produce the testimony

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tus.

mony of as great an Orator and Philosopher as any in his time, in the Greek Language, and that is *Themistius*, who in these or other respects will confront *Zephyrus* his Accuser. The fifth of his Orations now extant, was made in the Senate, and bears this Title, *Concerning the Humanity or Good Nature of Theodosius*. He begins with a story how, when *Lycurgus* the *Spartan*, entered the Temple of *Apollo* at *Diplas*, the *Pythia* or Prophetess told him, that she knew not whether to call him God or Man, but of the two, rather the former. Of this he demands the Reason of *Apollo*; why he thought fit to call *Lycurgus* a God. Whether it was for the renowned Victories, or because he gathered together the Bodies of his slain Enemies. Or was it, faith he, because he was incircled with a Guard of those that bore Spears and Darts shining with Gold? Or for that Golden Chariots, drawn with *Nysæan* Horses, went in procession before him? Or lastly, because he glistered with Golden Chains, a Train and Purple? Indeed the Entertainer of *Xerxes* at the *Hellaspont*, by such Pomp and Gaudy Furniture, was drawn into Admiration, so as to term that Son of *Darius* a God. Yet I (*Apollo* would say) knew that little account was to be made of such matters, which are possessed by most wicked and foolish Princes. Whom it is so far unfit to term Gods, that it is not decent to call them Men; as even that very *Xerxes*, who was so far fenceless and mad as to chastise the Sea, and to put Fetters upon the *Hellaspont*. As for me, if any should ask the question whether he was a God or Man, I should a little doubt how to answer it; but whether to call him a Man or a Beast, I should rather consider.

39. Neither did I doubt at all concerning *Nero*, many Ages after, Emperor of the *Romans*, when he came to this Temple, whether or no it was some God that came to me; for I knew very well that under the shape of a man a Beast was covered. Though he appeared in the posture of holding an Horse in his Hand, and in the Stile of such a Musician, as Poets and Painters think to be acceptable to me. Because he was a Fool and a Sot, and had filled the Empire not only with external, but also domestick slaughters; I rejoiced not at his coming; but abhorred and abominated him so much, that at his going away I intangled a Fillet in his Hair, and pulled therewith his Crown from off his Head. Neither did I much Esteem *Cresus*, the King of *Lydia*, though he filled my House partly with whole, and partly with half Tiles of Gold; for that compellation of *Soft-foot* proceeded from Luxury and not from Virtue. The matter standing thus, what could I see in *Lycurgus* when I called him a God rather than a Man? Even good Nature, Justice and Piety; and Humanity the chief of all these, by the benefit of which alone Kings come to be like unto God himself. For, he having taken into his Hands the Affairs of *Sparta*, which was then in a disturbed Condition, for want of Laws, and filled with the tumults of War; supplied it both with Peace and excellent Ordinances. And was of so mild and quiet a disposition, that one who had in the Assembly struck out his Eye, whom the *Lacedæmonians* for so doing would have stoned, he preserved and saved from punishment; and having brought him Home to his own House, he informed him, and made him sociable, that King knew very well that a Prince ought to appear superior to others, not by returning Injuries, but by well deserving of them by whom he hath been provoked, to Indignation and Revenge.

40. Therefore, faith he, ought you to answer this Question, Dear *Apollo*. If the Governor of one City, or, at most, having the Command of a small part of *Peloponnesus*, who both himself was poor, and governed poor men: who had his Commons in the *Placidium*, and drank of the Water of *Eurotas*; if he for his good Nature and Clemency caused you to doubt of what appellation he was worthy: what would you say of him, who having the Dominion of almost the whole Earth and Sea; by the means of whom the *East* is subject to the *Roman* Empire, the *West* is quieted; whom all Nations and People do venerate, not only those that are under his Command, but such also as desire to be Governed by him, yet he is indued with such easiness of Nature, such sweetness of Manners and such Mildness, that those who were convicted of Treason, and condemned by the Laws, he hath looked from that obligation, and recalled from the Gates of Death, to the Sun and light again? Wilt thou doubt and consider whether some God, or some man came into the Temple to us, neither wilt thou pronounce more boldly, than concerning the number of the Dust upon the Earth, that an Heavenly Name belongs to such a Prince? Not long since we looked upon this as a most excellent

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Theodosius.

Arcadius.

Honorius.

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Wine infls
much upon
his Clemency.

and admirable thing, to see Gold returning from two Treasuries (of the *Lageries* and *Res Privates*) to them again, from whom it had been unjustly exacted. But now we have seen Men restored from the Gate of the *Inferi* unto Life, whom the Law truly had sent thither; thence the Prince and Lord of the Laws hath reduced them: who saw plainly, that for one thing a King, and for another thing a Judge, is to be commended; for a Judge is to follow the Dictates of the Laws, but a Prince finds, that sometimes they are to be Corrupted, and their severity and hardness declared; he himself being the Living and Breathing Law, not placed in fixed and immovable Letters. For this seems to be the Cause, why the Power of Kings is, by God, sent from Heaven upon the Earth, that there might be a Refuge for Men to fly to, from a fixt and constant Law, to one that's Breathing and Living. Come hither ye Muses which Inhabit this august Temple of Council, and Chant with me that Song, which I am about to sing to him for his late Humanity and Clemency. For your parts, he so Cherishes and Embraces you, that he had made his Empress your Fellow-lodger, and has put her Statue in the same Chapel, where are placed the Images of the Emperor, and his Sons. In this respect your Company and Chorus, by such Communion and Society, will be more August.

41. But you shall not begin your Song, where *Homer* adviseth you to begin. For you shall not sing of Wrath, but of good Nature and Clemency, by which this Prince hath made it manifest to all Men, that the *Niger Calceatus*, or Condemnation, is a Thing utterly hateful to him, and estranged from his Nature and Will. And therefore is the contrary most acceptable to him; for it is impossible, that when the Stone (of Sentence or Suffrage) comes into his Hands, it should not turn Colour. He has learnt indeed to toll a Target on either side, either to the right or left; but this *Calceatus* or Stone he has learnt only to cast to the right, not to the left: Neither hath he two Pair of Golden Balances, as *Jupiter* in *Homer*, of Life and Death; neither ever is that of Life pressed down by any deadly Weight or Grains; but that which tends to Death and Darkeness lying downward, the other End rises up, and looks toward Heaven. Neither are there two several Barrels placed upon the Emperors Floor, as *Homer* will have two to stand upon the Throne of *Jupiter*, full of Destinies, the one of Good, and the other of Evil. For our Emperor hath no Barrel of Death, but one always full and abounding with Life, which he draws pure and clear from it, and pours upon Men. The Assertion of the *Assyrians* (he means the *Jews* or *Christians*) makes very well for this Purpose, which affirms, and that truly, the Heart of the King to be kept in the Hand of God, which cannot incline towards a Writing of Condemnation. For it is necessary, that he who writes such Letters, should fall out of that Hand which perpetually gives Life to all things. In former times, *O Emperor*! the Consent of the State gave you an Appellation of Divinity; not for that a vast quantity of Gold was in your Power; not for that you had abundance of Crowns and Purple Robes; not because you had the Power of making a Man Rich from very Poor; for these things are far more inferior than Heaven, and the Image thereof. But because it is in the Power of one God, and one Prince, to bestow Life; for no Man when he Invokes God, calls him *Victor*, *Triumphator*, *Germanicus*, or *Sybiacus*; but *Lover of Mankind*, *King*, and *Saviour*. Therefore is that Virtue to be Imbraced by you: and by that means it shall come to pass, that that Hand shall never shake you out of it; as in times past it did *Nero*, *Domitian*, and the Son of *Severus*; though not *Trajan*, or *Marcus*, nor *Antonine*, your Country-men and Ancestors, from whom God derived your Government to us.

42. But, I conceive this Trophy of yours to be much more Famous, than that you set up over the *Scythians*. And yet this you have Erected alone, and without any Assistance of Arms: Nay, so far hath the Sword been from Contributing any thing in this Matter, that therein the Edge of it hath been Blunted: Never did that Son of *Philip* Erect the like, though he pierced from *Macedonia* as far as *India*: yet he easily Conquered *Darius*, and *Porus*; but he himself was overcome by the Drunkenness and Folly of *Chips*. He did not revenge himself upon Wine with Wine, but with the Sword; neither could he bear the Boldness of *Philotas*, who to an Harlot had babbled something too Insolently, but with him he killed his Father *Parmanio*. You have not done thus, Most Divine Emperor, who for the sake of the Innocent have spared the Guilty; and have freed him who had affected certain v. in things, with another who had heard the same through a certain unhappy Fate. Or such Weight with you is every small Matter that conduceth to Clemency. And this

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this is the Cause; By Nature you are Divine: for every one hath need of little incitement or provocation to that to which by Nature he is inclined. Formerly there was no Distinction made in Crimes of this Nature, and it was accounted one and the same Offence, to attempt any unlawful thing, and to have heard the same, though against one's Will. This was to reprove the Nature of Man, for having given him open and large Ears, with a Design that he should not shut them, as he can do his Eyes and Mouth: for this Sense alone, in a manner, is out of our Power and Liberty, and whatever enters there, doth it as into an House that hath no Doors, so necessarily must it receive all things. But you have distinguished the Hearing of the Crime from the Crime itself. Upon the Guilty you have thought fit to admonish no otherwise than by Words. Than which Egregious Act, whereas nothing can be more worthy, yet did you add a Saying thereto more admirable than the Thing itself. For when all admired your Patience and Facility, therein you alone blamed the slowness of it. Which was as much as to say, Therefore you grieved, that you had not prevented the Convicted Crime with Pardon, and made the Sentence of Absolution more early than that which passed for the Parties Apprehension.

43. And yet what could be more Swift, than that you were pleased to term Slow-ness? For you did not diminish your Anger by Degrees, nor by little and little the Fears of those that were accused; neither after Judgment did you doubt, and were anxious what to do: but the forcible Sentence of Condemnation was prevented by another given by God, which came so suddenly, and without all delay, that many heard of it before the other. For my part, I only heard that Voice, which in its Swift-ness would have exceeded the bearing of Lamps, which is Celebrated in Honour of *Vulcan*, that which was used (by the *Perfians*) in the long and vast Journeys performed by their Couriers or Poets; being like those Beacons which are set on fire to give notice from high Situations: so that one happy Noise thereof restrained those drawn and Elevated Swords which were about to give the Stroke. May we call that therefore a Slow Clemency which was not diverted by the Swords which now hung over the Necks of the Guilty Persons? As for *Jupiter* in *Homer*, as if *Homer* may be believed, although he was his Son, yet could he not undo and recall that Fate which hung over the Head of *Sarpedon*, and when he began to think of it, was diverted from his Purpose by the Entreaties of *Juno*. But this our Prince hath dissolved a Necessity of inexorable Judgment, no less than that, without any regret; his Wife also freely consenting to it, being his perpetual Associate and Partaker in Councils: Moreover, their only and most dear Son following the Authority of them both, whom they Instruct and Educate to the same Courts and Manners, herein imitating both Father and Mother; for that he may be the liker to him, it much concerns him to be indued with the same Piety and Clemency. And in such manner were those Persons delivered. But as for them whose Faults were formerly mentioned, and were to be ascribed more to the Nature of their Ears than their Will and Pleasure, was there longer Consultation used, and more delay for their Security? Were not they presently delivered of their Fears; and as if they had never been suspected for any Crime, did they not presently and suddenly keep Holy-days? and instantly change from that abject and idle Habit, wherein they had appeared, to one more Comely and Elegant?

44. This Alteration I much more admire than that of *Ulysses*, mentioned in *Horace*; whereby, from a wrinkled and ragged Old Man, *Minerva* changed him into a Splendid Condition by the help of Clothes, and made him strong, and in the Flower of his Age, at such time as he was to be known by his Son. This was only a Change in shew, and as to the Superficies of his Body. You have returned their Souls into their Bodies: Neither can I call your Rod or Scepter less Beautiful or Golden than that of *Mercury* is termed by *Homer*: For it recalls not from sleep, but from Death: This is a Fortification stronger than all Iron, this will preserve your Empire much more than those Fires, the cutting open of Veins, and Axes, which when the most cruel Roman Tyrants forced upon their Subjects, they did not thereby repress, but increase their hatred against them. So did not your Ancestors and Progenitors, who were of Opinion, that Subjects might better be kept in order by Shame, and good Will, than by Fear; good Will being a much more strong and invincible Defence than Fear can be; for that weakly, by Fear it could never be vanquished, whereas it hath often Conquered all other Letts and Obstacles. As for Example, such Emperors as have been Famous for Meekness, except they were very negligent and careless of their Affairs, if any Conspiracy was hatched against

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against them, without much difficulty they suppressed it: On the Contrary, such as were Cruel and Bloody, who always put to death those they discovered, never wanted such as attempted their Lives. How ridiculous was he who would teach Tyrants how to be secure, by striking down with his Rod the most Tall and Eminent of the Stalks of Corn? for never could he strike down so many, but more and greater would still remain? In this respect the Fear of Tyrants being most unhappy, that when they remove all they suspect out of the way, yet they can never arrive to that Condition as to suspect none at all.

45. I cannot, O Emperor, but remember that Advice which you gave to your Judges when they went to sit. One there was that said, That the Safety of the Princes was in the first place to be regarded: Nay rather, said you, their Fame and Reputation. For length of Life is not that a Prince ought to seek after, but a certain Excellency in Virtue. Otherwife *Diomysius* and *Therius* had grown old in their Domination, whereas their Old Age was nothing else but a more lengthened Infamy. He who is of that Opinion, and esteems his Fame more than his Safety, he judges them for his Enemies who hinder him from Glory and Renown; than those that lay Snare for his Body and Life. Therefore I shall not urge to you any Saying of *Plato*, no not of *Aristotle*; but it will be sufficient if you understand your own Saying, and consider in every Action, whether there be more Honesty or Advantage in it; whether you be acted with Reason that's sincere, and void of disturbance, or your Mind be rather darkened by some affection or perturbation: For, Disturbance of Mind is the most dangerous of all, that perverts Reason in those who have the greatest Power. Therefore did the *Perfians* fitly call *Cyrus* a Father, *Cambyses* a Lord, and *Darius* an Huchster: For its Justice that makes a Father of a Common-wealth; Anger and Fierceness a Lord, and Covetousness an Huchster. However, the Appellation of Father is only Divine, (for Poets call *Jupiter* the Father of Men) whereas of the other two the one is appropriate to Wild Beasts, and the other to Slaves. But as in the Swarms of Bees there is one King, who is chief of himself, and by none other is instructed, about whom all the whole Swarm flutters, and makes a noise with Joy, and Incircles him: So happens it now and then amongst Men; but he longest continues his Rule, when both these things meet and unite in him, viz. Beauty of Mind, and Comeliness of Shape and Body. And he doubtless is a great Prince indeed, whose Beauty is not imperfect or lame, but altogether intire and absolute. Wherefore, as *Alexander* declareth, that *Achilles* was happy, because he had *Homer* to publish and blazon out his Exploits: So did I think my self fortunate, in that by my Oration I have had opportunity to set forth your deserved Praise. Neither let any Man imagine, that this proceeds rather out of Flattery than from the force and evidence of Truth: for of all those Emperors which hitherto we have either known or heard of, besides two most famous of all the rest, there is none other, truly, which would have animated upon so great a Crime and Offence in the same way, and by the same measure, as you have done.

46. Thus much uttered *Themistius* in his first Oration concerning the Good Nature or Humanity of *Theodosius*; upon what Occasion we cannot certainly tell. Some have imagined it a Congratulatory Speech for his Clemency shewed to the *Antiochians*; but that it could not be, as appears from some Passages, and that in particular, where he speaks concerning two sorts of faults, whereof the one was the Crime of Treason itself, and the other was the Hearing of it, or what we call Misprision of Treason, which how could it agree with the Popular Tumult of the Citizens of *Antioch*? It remains therefore, that with *Petavius* we conclude it to have been some Conspiracy of certain Senators against his Person, which he thus readily and freely forgave. But as he did not only do this Act of Clemency, but continued still to think himself what the Orator makes him to be; so neither could the Orator forbear having the same occasions, but still commend him, for the easiness and agreeableness of his Manners; this Emperors merit on the one side provoking him and on the other his own continual Exercise in the way of speaking by an Habitual Inclination, prompting him, though now in his Old Age, to keep up that Faculty which in his youth he had attained. Is it possible (saith he) that one who designs to be Excellent in Horsemanship, and affects the Surname which by *Homer* is given to *Nestor* (whome he calls an Horseman, and a Driver of Horses) that he should altogether neglect that very Art, and not exercise himself in all these Courses and Methods which conduce to the perfection of it? Such as are to mount an Horse readily, to sit him, with as much ease to the Horse as possible; easily to quit him upon occasion, to curb him in when there's need for it, and to give him the Reins the Case shall require, and to cause him to take such way as is most convenient. In like manner

Themistius his second Oration on the practice of *Theodosius*.

Themistius his second Oration on the practice of *Theodosius*.

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manner *Merculus* blames *Antiochus* in a certain place in *Homer*, for having in a Chariot Race, which *Achilles* ordained in honour of *Patroclus*, out of desire of winning, never considered in what danger he drove, and not restraining his Horses, but putting them on in a strait and precipitous Place. As in Horsemanship, the same thing is to be observed in the Dexterity of Shooting. Will any who has a Design to be excellent in that way spend his Time and Pains in any thing so much as daily to learn how to hit the Mark? Therefore is his Hand even worn with drawing the Bow, and by his Industry he arrives, at length, at such Skill, as that of *Meriones* of *Crete* is reported to be, who if he missed the Pidgeon, yet would be sure to hit the String.

47. If any desire to be Skillful in Fencing, and by it to obtain great Praise and Renown, if he despise the knowledge how to manage his Weapon, and is ignorant how to turn his lean Body from one side to another; shall we say that this man hopes for Glory and Commendation from that Art which he never Exercised, or give him Praise or Honour for it as in a Dream? That I may not instance to you in a Pilot, or a Shepherd, or a Physician, and prove to you, that all these, if they desire to be Excellent in their several ways, must also be desirous to be conversant in those Courses by which the Excellency of their Arts or Professions are attainable; I come to that very Point on which I purpose to insist. If therefore there be any one who is seated upon an Elevated Throne, adorned with a Purple Robe, and having Dominion in a manner over all Earth and Sea, which he both rules and preserves, and upon occasion pardons; if he have a desire after Praise, which is sincere and without flattery, doth not his Mind seem to acquiesce, and be content in what is ordained from above? And in that he now passeth the sixth Year of his Reign without the least blot or spot upon him, is he not more proof against Calumny and Contempt, than against the Sword it self? Remember that first Meeting you had, and the *Beotian* Vases or Congratulation, upon occasion of which you met together. Here he spends some words in reflecting upon some Poet or other, who being either a *Beotian* by his Country, or making his Commendation in the manner of *Pindaric* Odes, with very handsome Expressions well put together, yet commended the Emperor for these things which are esteemed by the Vulgar, as great Forces, good Fortune, and Authority. Whereas it is agreeable to the Art of Wisdom alone to inquire who he is that is truly a King, and what are the Signs and Tokens of his Majesty: not such as are the Golden Eagle, and the Drapens (in his Banners) subtly Woven: or that with an Arrow or Dart he can hit a Mark; for these I suppose *Nero* the Minstrel, and furious *Domitian*, might urge in their own behalf; but he is the Man whose Mind is lifted upward, and intent upon God the Moderator and Prince of all things; and by him being Governed in all his Affairs, from him receives whatsoever is profitable for the Regiment of an Earthly and Inferior Kingdom. And from him it is, that you (most Excellent Emperor) receiving what you have, stood in no need, of *Arcters*, or the *Scythians*, of *Armenians* or *Ucrains*, or *Horse* bearing heavy Armour, for Extinguishing that *Scythian* Flame. For by your Council and Prudence alone that Flame fell and went out of it self. You have not your Eyes fixed on the Earth, neither are you perplexed how to procure Gold or Silver for your Supplies; but how you may heap up vast Treasure of good and famous Deeds, of which none can rob or plunder you.

48. After some other words he further tells him, that there was another quite contrary Cause of his Delay in speaking than that which he suspected; not a Defect; but a luxuriant Plenty of Subjects upon which he could insist. For being wont, faith he, to do many excellent things, not only daily but hourly adding one thing to another, you thence do cause that my Speeches come from me very difficultly. You do not undo what you had formerly done, but still weaving more work, and multiplying it upon me; when I purpose to commend any famous Action you do, or saying which you utter, with a sincere and incorrupt Encomium, presently many new and fresh present themselves, that put others out of my Head which formerly I had pitch'd on; and when, omitting the former, I intend to speak of what had happened later, still others of fresher date occur, which exclude the former Commendation. The same things happen to me as to those Liqurish People that are invited to a Feast: I taste and take an Essay of every thing; so that I fill my Belly with no one Dish that is set before me. Or rather I am in the Condition of Hounds, which if they happen upon one Wild Beast alone, do constantly stick to it and pursue it, till it be taken; but if they rout others from several Parts, choose one of these, and leave the other to its Escape. And truly

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truly these Ancient Poets or Singers are not at all to be reprehended, if they Extolled *Hercules* the Son of *Jupiter* more easily in the beginning than in the sequel and progress of his Undertakings. Your Acts are of the same Nature; for you increase perpetually your Achievements, so that our Muse wants sufficient Confidence, to keep pace therewith; her Orations being not light winged, and easily moved, but slow and leisurely, looking about upon every thing that's done, and not merely upon it as done, but with what Will, at what Time, with Whom, and for what Purpose. For oftentimes an Action of it self is not so considerable, but the Will of performing it is Laudable and Excellent. Of this Nature was your first Expedition to the *Rhine*. Every one indeed did not apprehend it as your Mind in attempting was great and truly Royal; to revenge a Prince taken away before his time, and to preserve the Remains of his Family. Whosoever thinks that of low Concernment, let him consider, how by that undertaking alone, and the terror thereof, the Infolence of the *West* was repressed. Even as *Achilles* in old time, when he abstained from War, yet by leaping out of his Tent Exclaiming and making a Noise, extinguished the Fire that had taken in the Navy of the *Greeks*, and deterred the *Trojans* from further proceeding.

He influences in his quieting the rest.

His lessening the burden of Tributes.

49. These things, when I consider separately and apart, I find it necessary to use my Notes, by degrees and warily. As when I think upon your lessening the burden of Tributes, in that the Timing of it seems more worthy of Admiration than the greatness of the Thing it self. For, when, as we verily apprehended, there might be reason to augment these Impositions, there being daily need of more supply, presently the Charge abated; and therefore the coming of it to us expectedly, and beyond our hope, was greater than the Kindness it self. Formerly *Corn* was not, without threats, and compulsion, brought hither; but now it flies as upon Wings, nay more swiftly, and without any calling for it. Now the Sea it self obeys the Emperor, and even the Winter Navigation with Ships of Burthen is more Commodious and Pacate than that of Summer. The Granaries therefore do not now abound with Filth and Cobwebs, but are full, and to spare; and that Ancient Trust and Security, which formerly had left us, is returned again. So pass we the Winter, hoping well concerning the Fertility of the Spring. The Prince thinks it not below him to make inspection into these Treasures, but permitting those wherein Gold is laid up to be kept by others, doth not stick at all, nor think it below his Majesty, to take an Account himself, and view that which is deposited in the Granaries. *Cresus* the King of *Lydia* indeed, thought it more becoming his Royal Magnificence to view his Vaults filled with Gold, than furnished with Corn. And therefore he bragged to *Solon* the *Athenian*, not of his heaps of Wheat, but of his Filings of Gold, which were not the Gifts of the Earth, but the unfruitful and barren Wealth of an arrogant River, with which whosoever is compassed about, must dye of Hunger, as he did who perished in the enjoyment of his Wealth. Therefore would not *Solon* own *Cresus* for the most happy of all Mortals; but mentioned the *Athenian*, and the Young Men of *Argos*, and any thing sooner than he would do him. But doubtless most Blessed and Happy would he have pronounced that Emperor, with whose allowance such an Army is maintained and kept on foot, as never was before in the Roman Empire, especially upon the River *Tigris*. After this he speaks concerning his Allowances, and beautifying the City of *Constantinople*, what we have already written concerning that Matter, and then proceeds.

In such an Army kept up as never was before in the Roman Empire.

50. And truly, my good Hearers, if this Body of mine could be accommodated to my Will, I should desire, that my Life might be continued to me, not thereby to enjoy any other Pleasures, (for they are all already, and with reason, extinguished in me) but that I might see a third City, which our Emperor will accomplish ere it be long. Neither have I this desire in me without hope to see it accomplished. For in him there remains so present a Remedy for driving away mine Infirmities, that when lately he willed me to apply my self again unto Music, there was more Virtue in his words, than in all the Medicines of *Hippocrates*. Now I proceed with more vigour than formerly, and when I speak can better be heard; neither am I so stopped up, but I can swallow both Meat and Drink: nay, together with this Sedulity and contention of Mind, my Body in some measure rearing to with me, is excited, and seems to shake off Old Age. Wherefore the Case being so with me, no wonder it is that I sing not now my last Song, (as Swans are wont before their Death, in Honour of that God whose Servants and Prophets they are) For the Prince of the Muses will still afford me some better and sweeter

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Theodosius
once Praefect
of the City.Theodosius
committed
the charge of
his Son Arcadius
unto him.

occasion for Melody. Indeed the Medicaments of *Colchis* deceived the Daughters of *Pelias*, pretending to make their Old Father Young again. But this our Prince reduced me to true vigour and strength, not so much by his new Building, as for that he himself grows and increaseth daily in a desire and aptness to hear. Therefore doth he excite, provoke and stimulate my Mind, neither suffers it by heedlessness to fall into Slumber or Obscurity; but though weary and weakened, as some Excellent Soldier, he recalls it, and puts it to Discipline, affording Excellent Helps thereunto, and whatsoever Art it self doth require. In that therefore I put my Hands to the *Praefecture* of the City, I neither was led by Ambition nor desire of Honour; but because I coveted to make it appear, that our Emperor had the same Opinion with Divine *Plato* concerning Man's Felicity. But that neither the Emperors Opinion, nor the Saying of *Plato* is to be convicted of Error, is rather to be shewn by some other than by me.

51. But I shall not boast much of that Table or Picture, but of another and more perfect, which contains those Pourtraictures in its Power, which the Workers in Ivory or Gold have not framed, but is the Work of the Emperor himself, or a Sacred Offspring presently consummate from a Sacred Birth; alone desired by the Wishes of all Men, and from his Swadding Clothes called *Augustus*, whose Body indeed doth grow, but he cannot encrease in Honour: whom he committed into my Hands, when he made preparation for his Expedition into the *West*, and that in the sight of the Senate, and all the People; with this Charge, that I should take care of him, and diligently make much of him, I, who could neither move a Target, nor tols a Pike, neither knew how to make use of Bow or Sling, only wore the Pallium, and was even bended together by Weakness and Old Age. But as it appears, he did not think that the same Discipline was proper to a Prince, and a Private Man: that he who was to command at Land and Sea, should be instructed the same way as an Officer in the Army. Come hither therefore my most Dear Son, and sit on my Knee, that I may instruct thee; not as *Peleus* did *Achilles*, stopping him with Meat and Drink, but giving thee that Nourishment which Philosophers alone prepare for Young Princes that are under Age, I mean those fruitful Disciplines, lofty, and full of advantage, the Grace and Ornaments of the Ancient Emperors. Such as the great *Cyrus* of old was Educated in; the Roman *Numa*, that famous *Mercus*, and excellent *Titus*, whose Great and Glorious Saying it was: *This Day I have not Reigned; for I have not done any Man good*. Receive also the Instruction of famous *Plato*, and Divine *Aristotle*, by whom Great *Alexander* was instructed; whom from an obscure Kingdom they made Lord of all the World. If thou beest informed and educated by such Masters; thou who challengest the Name of that God which presideth over Sciences; then will I readily be accomplished the Wish of thy Parents, that *Thou mayst prove more Excellent than thy Father*; or what is more moderate and facile, Let him follow his Fathers Steps. Then will thy Mother rejoice to see thee not only returning with Spoils from a Battle, but from speaking to the People, and administering Justice, with the Assessors and Officers of Justice incircled about; which Virtue chiefly and best of all fits a Palace.

52. Thus much *Theodosius*, in his Second Oration in the Commendation of *Theodosius*, which as being more tedious than our present Design will well suffer, I should not have thus transcribed, but that producing no Testimony of any Christian in behalf of this Emperor, not any of his own Religion, which must be in another Place, it seems more just that the Reader should know what all the Pagans say, and withal perceive their ways of Oratory in this Age. Here he hath also several Historical Hints concerning the enlarging of *Constantinople*, and other Matters, amongst which that of *Theodosius* his recommending his Son to the care of the Orator, at such time as he prepared for his Expedition against *Maximus*. This Honour put upon him, with other Favours, may make some imagine that he was bribed to speak as he did, at least a fence of Gratitude and good Nature might give some farther Accent to his Oratorical Straine, in the presence especially of the Emperor. But he deduces all his Arguments from Matters of Fact; and from particular Additions, which are only convincing, rightly argues to the Humour and Nature of the Person, in such an Assembly where the contrary being notoriously known, could not but have checked his how ever ready Tongue. But we have still more Testimonies from those of the same Superstitious way, as to Religion, and such as were so far from being given in his presence, that it could not be presumed, that they should ever come to his knowledge. One of those is afforded him by *Symmachus*, as

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And Symmachus
this.And Arcadius
Videtur.

zealous for the worship of false Gods as any of his time, except it was *Flavianus*, whom, as in the several Epistles he wrote to him, he calls Brother, so he seems his Elder Brother in this respect; for his hatred to *Theodosius* drew him so far, as to engage nay to stir up and incourage *Eugenius* the late Usurper against him, and in that Cause he lost his life at the *Alps*, if some were to be believed. Yet to this *Flavianus*, upon the occasion of the Emperors renouncing every thing given him by *Codices* formerly mentioned by us, doth the said *Symmachus* write after this manner. Whereas I ran through the commendations both as to War and Peace, which belong to our Lord *Theodosius*, in an honourable style, I confess that I rather touched at the Heads thereof, than spake enough to the particulars. I also added his Laws to the good things he hath done in reference to Peace, which as I know, they take away admiration from ancient ones, so I was of opinion that they have not left equal glory to those which are to come. But this new fashion of *Fide commissis* and the Profits of *Codices* eternally rejected by this best of Princes, by so much lustre exceeds the light of such as were before, as much as it is more august for a Governor, to put a restraint upon himself than others. And I with that private Avarice may understand the meaning of the Lawmaker, and may frame manners out of his Laws. For I am not ignorant what he would have others do of their own accord, who first himself hath abhorred these suspected Advantages. Then after some reasons added for his wish and his approbation of what *Theodosius* had done, he concludes. If the Amendment of the greater part of Persons be not attained; in vain hath the Emperor bound himself by these severe sanctions, *Who all ways hath been good, and of unblameable manners*.

53. This cannot be said to have been spoken in his Presence, or to gratify his Ears, but wrested from the Writer by the great evidence and Force of Truth. So was that which we shall subjoin, and wherewith conclude these Testimonies, which is the Account *Aurelius Victor* gives us of this Emperor, and not written till after his death. *Theodosius*, faith he, was born of *Honorius*, (his Fathers name he mistakes) and *Thermantia*; by Nation a *Spaniard*, and deriving his Original from the Emperor *Trajan*; was created *Augustus*, by *Gratian* at *Sirmium*, and Reigned seventeen years. It's reported that his Parents, being admonished in a Dream, gave him a consecrated Name; so as in Latine he might be called *A Deo Datus*. From this Oracle a Rumour was also spread in *Asia*, that one should succeed *Valens*, whose Name in Greek began with Θ and ϵ and α , with which *Theodorus* being deceived, and usurping, suffered the punishment of his wicked Ambition. As for *Theodosius*, he was an exceeding great Propagator and Defender of the Commonwealth. For in several Battles he defeated the *Huns* and *Goths*, which had harraled the Empire under *Valens*. With the *Persians* he made peace at their desire. He vanquished and slew *Maximus* the Tyrant, who had murdered *Gratian*, and seized on *Gall*, at *Aquileia*; and put to death his Son *Vitor*, whom being yet within Age, he had saluted with the Title of *Augustus*. He also overcame *Eugenius*, and *Arbogastes*, ten thousand of their men being killed. For this *Eugenius*, trusting to the Interest of *Arbogastes*, after he had murdered *Valentinian* at *Vienne*, made himself Emperor; but presently lost both Life and Empire. Now *Theodosius* was in Disposition, and also in Body like to *Trajan*, as far as we can judge by the Writings of the Antients, and by Pictures. His Gate was upright, his Limbs alike, such sort of Hair, and such a kind of Mouth and Face, saving that *Trajan* by plucking out the Hairs, had his Beard thin on his Cheeks, neither had he so big Eyes; and I am not certain whether he had so much Gracefulness, so much vigor in his looks, or in his Gate was so Magificent. But his mind was altogether the same, so that nothing can be said, which may not seem out of Books to be transferred upon the other. A Disposition full of Clemency, Mercy, and freeness as to Conversation, thinking himself to differ in Habit only from others: Honourable in his Dealings with all men; but lavish towards good men: affecting those of simple or innocent Natures equally, as admiring the Learned if they were harmless; with a great Mind bestowing great Things; loving those of his Subjects that were but privately known unto him, and conferring on them Honours, Money and other Emoluments; especially such as in difficult cases he found to be true unto him.

55. But, For those vices wherewith *Trajan* is aspersed, viz. violence (or being given to Wine) and a coveting of Triumphs, he is detected them, that he made no Wars, but found them made to his hands, and prohibited, by a Law, services conducing to man's tomes, and that Ministers should be admitted to Feasts: attributing so much to Modesty and Contenance, that he forbade the Marriage of Cousin Germans, as of Sisters. For Learning, if we look at such as arrive at perfection therein, he was but moderately seen; but very sagacious, and using much diligence to understand the Acts of

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Lib. 2. Ep. 13.

Qui semper bonus
et integer
moribus fuit.

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of his Ancestors, of whom he did not cease to execrate such as he had read to have been Proud, Cruel and Enemies to Liberty; as *Cinna, Marius and Sulla*, with all such as loved to domineer over others; but especially the Perfidious and Ingrateful. Indeed he would be angry at unhandson things, but would quickly be turned and appeased, whereby it came to pass, by little delaying, that sometimes more severe Commands were mollified. And he had that by the gift of Nature, which *Augustus* learnt from his Doctor of Philosophy, who when he perceived him to be easily moved, advised him, when he began to be angry, that he might not determine any harsh thing, first to repeat the four and twenty Letters of the Greek Alphabet: that that concitation which was but momentary, might fall of its self; the thoughts being directed another way. But without doubt, which is a point of rare virtue, *After that his Royal Power was increased with his years, he was better than before, and much more after his Victory obtained in the Civil War.* For then more solicitously than ever did he take care of Provisions for his People; and a great mass of Gold and Silver piled, and spent by the Tyrant, he restored to many out of his own Treasury; where, as even good-natured Princes were scarcely wont to yield back bare grounds and Lands spoiled. Now I come to those things of lesser concernment, and as it's said *within the Court*, which because they are more secret, do more attract the Eyes and the Ears of men, by Nature curious. His Uncle he respected as a Father; the Children of his deceased Brother and Sister, he held in the same place as his own: those of his Kindred and Affinity he embraced with the Affection of a Parent: *He would entertain Elegantly and Cheerfully, but not Profusely or with much Cost:* would sit in Discourse to the Company, their Ways and Dignities, mixing Gravity with his Mirth: he was an Indulgent Father, and a Kind Husband. His exercise was neither effeminate, nor too tirefomeness: when he had leisure, he chose rather to recreate himself with walking; and by continuency of eating, (or a moderate Diet) he preserved his health. Thus he died in peace at *Milan*, in the fiftieth year of his Age; leaving both the Empires to both (*viz. Arcadius and Honorius*) in a quiet condition. His Body the same year was conveyed to *Constantinople*, and there buried.

56. It's time now to make an end of this Subject, and so Reader thou hast cause to think; but if thy patience be too much tired and presumed upon, let thine Indignation fall upon his Memory that gave the Occasion. I suppose thou wilt easily pass thy Sentence, and there's little need of summing up the Evidence. The charge or Accusation is made by him, whom thou must needs, by all that thou readest, take for a bitter Adversary, and Malicious; neither are any of his Friends produced to say any thing in his behalf, except thou wilt look upon those as interested Persons, who were of the same inclinations with *Zosimus* as to Religion, and some of them as zealous as himself in that way, and such as could make as little Advantage by that they testified, as he could receive damage by his undertaking. Besides, most were Eye-witnesses of his Actions, and had them not by report, as he must necessarily have had, not writing till the later end of the reign of *Theodosius* his Grandson. But the great objections against him are, the Effeminateness and Luxury of his Life, with the profuseness thence arising, and his oppression of the People, by raising of money to supply these disorderly occasions, and by reason of his making for many principal Officers of the Army. Now the Evidence that comes in for his Defence; first makes him an extraordinary good man in general, and, it also further speaks directly to the things whereof he is accused. A man of singular goodness of Nature, full of Clemency, Pity, and of wonderful Freedom and Affability thou findest him, may further, *Symmachus* tells *Elpianus*, as it fell naturally in his way, and not by any Study or Design, that he was always good and unblameable or found in his manners. And as for the continuance and extent of this goodness *Vitor* witnesseth that, he was better after that his Power increased with his years; and yet much more still after his victory obtained in the Civil War. Add to these what *Theodosius* affirms of his keeping such an Army on foot as never had been in the Roman Empire, especially upon the River *Tigris*. And moreover, recall to mind what he discourseth concerning his Buildings at *Constantinople*, and bringing that City to such extraordinary Perfection and Decorum.

57. Any indifferent Person hearing this so sublime a Character, would easily acquaint him of too ugly a charge, but this we shall not do without instanting in the particulars themselves. And first for his Luxury and Sloth, his pleasing his Appetite, and his Belly, and gratifying his Ease, and nourishing many Ministers and Instruments of his Effeminate life; thou findest the contrary affirmed both by *Pacatus* and *Vitor*. The former speaks of the retrenching of the expences of the Court, not only by rejecting what was superfluous, but scarcely admitting of a necessary allowance; and as to his own Person, contenting

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tenting himself with a mean and foully fire, while his Palace abounded with examples of Pains-taking, Patience and Frugality. But grant it an Oratorical flourish that his meals were more spare than those of ordinary Tables, and were only supplied with Provisions relating to the place and time; yet when he made his entertainments (for Princes, sometimes this way must shew their Magnificence) he did it indeed elegantly and cheerfully, but *Auradius* affirms without any profuseness or much cost; for (he gives the reason) he therein excelled *Trajan* that he was not given to Wine, but by a moderate Diet he kept himself in health. If these two may be believed, he was both very temperate himself, and by his example drew others off from their luxurious courses, to Abstemiousness and Frugality. For the sluggishness wherewith his Enemies charges him, it can be in no other respect than that for which *Vitor* extolls him above his Ancestor *Trajan*, that he did not himself make or give occasion to Wars, but was provoked or drawn into them by the Aggressors. This indeed like a true Christian Prince he was guilty of, never seeking occasions to shed mans blood: He was no Pirate (as that Seaman told *Alexander*) robbing with whole Armies. But did he ever refuse any enterprize; that might be warranted by that goodness of Nature and love to Mankind, which ought to abound in Princes especially, who cannot in any other respect be so truly filed Gods upon Earth, or thought to resemble him whose vicegerents they are, in whose Hands (as the Pagan Orator applauds) their Hearts and Lives do stand? He was ready upon any occasion to vanquish the *Goths* and *Huns*, to restrain the *Saracens* and force him to make peace. Remember what his Detractor writes concerning his disguising himself, and the entertainment he had in an Inn, where he discovered the designs of the Invaders. He suppressed two considerable and potent Usurpers at Home, and brought to reason such Barbarians as made any disturbances. And abroad, besides the terror which his Armies and Name struck into other Nations, he awed the bold and daring *Persians*, as he durst not stir or move; him whom neither *Julian* could conquer, nor others of his Predecessors, keep in order; and though not a Confederate, made him in a manner, as the Orator saith, by his Presents confide himself a Tributary.

58. For his making for many *Magistri Militum*, or great Officers in his Army, he had occasion enough to do it, if what *Theodosius* saith be true, that he maintained a greater Army than ever had been in the Empire. The Northern parts required his great care; but the East, where he had reason to apprehend dangers from the great and powerful *Persian* Kingdom, now, as it appears, was more indolently and with more Forces upon *Tigris* than ever to be secured. It was not he that let the Barbarians into the Bowels of the Empire, and first received them to Charges and Commands, but now it was done, when they were civilized, had learnt the Roman Discipline and way of Fighting, and not only they, but their Countrymen who lived at Home, by that continual intercourse, which for several Ages, either in War or Peace they had had with the *Romans*; there was necessity, at least from Rules of Policy, to tame, and by good usage to transform them, if possible, into a Roman interest and humour. When Strangers embody with a Nation, when they marry in that Country, and have Children to succeed them as Members and Citizens thereof, it's seldom but they acquiesce, grow domestick, and even forget the concerns of the Regions they left; which why it took not place in these Barbarians who afterward overran the Roman Empire, we may in convenient time Discourse. In a Neighbouring Kingdom there are now more at present which bear the Title of *Marshall* thereof, than under him, that of *Magister Militum*; though that Kingdom can scarcely be esteemed as tenth part of that Empire which he the rest Commanded. To oblige the Princes of such Nations as had been received into the Empire he gave them Commands, yet so as to be commanded themselves if they grew turbulent, and by preferring them and others, if you believe what you read in his behalf, he did not so mightily heighten the Charge, and thereby was driven to harass and oppress his People by unwonted Taxes and Impositions. *Theodosius* speaks of his releasing Tribute, and that with so much respect to time and occasion, that the circumstance was more acceptable than the thing it self. *Symmachus* extolls him for his selfless in eternally renouncing what Princes had wont to get by *Fidei Commissa* and *Codicils*, and as he admires his Laws in general, as full of Goodness and Clemency, I suppose, Reader, by what thou hast found in the History of his Government, thou wilt scarcely be moved to be of the contrary Opinion.

59. That therefore which *Zosimus* terms profuseness, to understanding Persons, seems to have been a Crime (with him) of the same Nature with that he charges upon *Constantine*, and no other but his Munificence towards Bishops, Churches and other Persons and things relating to Christian Religion. That several miscarriages hapned

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happened in his Reign there's little doubt: amongst a multitude of Officers employed by him in so many Provinces, that many should not be swayed by Pride, Passion and Self-interest is not a thing imaginable, and how he could prevent or redress every individual Inconvenience, being necessarily to use other mens Eyes and Hands, none can devise. It was his misfortune to be deceived in men toward his later end, though as to those that served him at his first Entrance *Pactus* magnifies both his Fortune and his Choice. And the great mischief was that it hapned towards his later end, for he might, had he lived, have discovered and removed those Persons, who being intrusted by him with the management of the Affairs of his Sons, gave beginning to those miseries which afterward fell upon the Empire. And that we may be impartial, he had one Infirmity in his Temper and Humour hinted by *Victor*, and that, was some Hastiness and Anger, to which the best Natures are often subject, which sometimes when ill men could manage it, might break forth to some actions of Severity. But he easily cooled of himself, if by ill Instruments his Heat was not ventilated, and most readily closed with what tended to appease him: as we see in the business of the *Antiochians*. Indeed one example there is of his being overcome with his passionate humour, which produced an Effect of very ill consequence. At *Thessalonica* the Citizens fell into a tumult about a Chariot Driver, whom being committed to ward for attempting a Woman's Chastity, they would force out of Prison, and their Rage flew so high as to kill *Boterichus* the *Magister Militum* in *Illyricum*. The report hereof cast the Emperor into so violent a Passion that, without any Process made against the Offenders, he commanded that some of them should be seized and put to death, which command being executed in an hurry, and when the Town was full of Strangers, seven thousand are said to have perished. This we did not insert into the History of his Reign, because though the thing it self was too Considerable, yet the consequence of it was very Admirable, and relates to Ecclesiastical matters, wherein, God willing, shall be discovered that Admirable Humility, Meekness, Patience and Self-denial of this Prince, when for this his Offence he was secluded the Church by *Ambrose* the Bishop of *Milan*, and not received to Communion again till he had given publick satisfaction, and made a Law concerning the deterring the Execution of such Sentences for thirty days. This was the only flaw in his life that can be known, of which yet our Church Historians only take notice. A wonder it is it should escape *Zosimus*, who would have doubtless gone far out of the way to have hooked it in; so that the matter seems not of such consequence as some Writers make it. However, take this Person according to his general Carriage and Demeanour (which will much more appear in our Ecclesiastical Part) he was so extraordinary for Goodness of Nature and other Qualifications, that he deserved also the Synonyme of the *Great*, which Posterity thought fit to confer on him.

But he was
Passionate.A.D.
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C H A P.

T H E
ROMAN EMPIRE.

C H A P. III.

Containing the Decay and Ruin of the Empire in the West.

S E C T. I.

*The first step to the Ruin of the Empire.**From the Death of Theodosius the Great, to the first Invasion of Italy by the Barbarous Nations.**The space of seven years and about seven Months.*

The worth of a Prince is most discerned in the want of him, and so it happened to the Empire after the death of *Theodosius*. It was the great infelicity of it and him, that he left two Sons not capable of themselves to manage publick Affairs; *Arcadius* the Elder being but about seventeen years of age, and *Honorius* not eleven: But betwixt them two he divided the Empire before his death; assigning to *Arcadius* the East, and to *Honorius* the Western Parts, wherein were comprized the Western *Illyricum*, with *Italy*, *Gaul*, *Spain*, *Brittain* and *Africk*. Till they should come to maturity he appointed *Rufinus* Chief Governor or Assistant to *Arcadius*; and to *Honorius*, *Stilicho*. These Men having such great Advantages, and puffed up and emboldened therewith; when the Empire, by reason of the *Barbarians* which hovered upon it, was in so ticklish a condition, that it required their care and diligence to secure it, thrust it on, and plunged it, through their Ambition, into greater Inconveniences, and such, as it could never recover it self out of them: for they took advantage at the Youth and Imbecillity of their Masters, and omitted no sort of Villany to advance themselves into their rooms. This mutual heat of Ambition cast them into so violent hatred of each other, that to procure the destruction of his fellow, as well the one as the other, confounded all things Divine and Humane. This gave such advantage to the *Barbarians* received into the Empire, that they, who by fair and prudent management, might have been induced quietly to incorporate with the Romans, were thereby allured to set up for themselves; to become Conquerors instead of Subjects; to cantonize the Provinces, and erect Principalities of their own. How these mischiefs began and proceeded *Zosimus* declares after this manner.

Rufinus left
Governor to
Arcadius, and
Stilicho to
Honorius.Out of Ambition
bringing all
to Ruin.The manner
how declared
by Zosimus.

2. After that the Sovereign Power came into the hands of *Arcadius* and *Honorius*, they seemed only in Name to be possessed of it; for in reality, the whole Power of the East was in *Rufinus*, and that of the West was at the pleasure of *Stilicho*. They now determined all Suits and Controversies with great licentiousness; and he went away with the Cause who could give most Money, or by some Relation to the Judge, or indearment with him, could draw him to his Party. Now Lands and Estates, of which the owners were thought happily seized, were made over and appropriated to them two: Some by such means bribing them, and thereby evading their Calumnies, with which else they would be over-powered; and others freely parting with them, thereby to purchase Offices and other Advantages, whereby the Cities were oppressed. The Provinces being thus harassed on every

P p p

fide,

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side, all the Wealth flowed into their Coffers; and in every place Poverty raged, where lately had been Abundance of all things. The Princes themselves were not at all sensible of these things; but whatsoever *Rufinus* and *Stilicho* ordained was looked upon no otherwise than as unwritten Law. And by this time *Rufinus* having vastly enriched himself, began now to dream of procuring no less than the Empire, and that by giving in Marriage to the Emperor a Daughter he had that was fit for Marriage, judging it a very fit Advantage for his purpose. This, by some of his Creatures, he procured to be moved to *Arcadius*; and, as he thought, with all secrecy imaginable: but by some way or other out it came, and began presently to be the discourse of the people: For from the swelling of his Pride and his Arrogance, which daily increased, all conjectured what he aimed at; and this increased the common Odium against him. But as if he intended to cover and conceal his lesser faults by great Villanies, he attempted another thing in prosecution of his Designs. *Florinus*, who, when that great *Julian* was *Cæsar*, exercised the Office of *Præfectus Prætorio* over the Nations inhabiting beyond the *Alps*; had a Son who was called by the name of *Lucian*. This Man courted *Rufinus* as his Patron, and had given him Lands of very great value: Upon which Account *Rufinus* always acknowledged himself obliged to him, and would still commend him before the Emperor *Arcadius*; who made him thereupon *Comes* of the East. Now the Authority of this Magistrate is such, that he commands all such as govern the Provinces of those parts, and corrects those that do amiss.

3. *Lucian* carried himself so virtuously toward those that were committed to his charge, and acted with that Justice, Temperance and other Qualifications requisite for fitting him for that Employment, that he became famous; for he was no respecter of Persons, neither concerned himself otherwise than as the Law directed him: In so much that when the Emperor's own Uncle *Eucherius* required something that was not fit to be granted, he rejected his Proposal, and thereby so moved him, that he went and complained of him to the Emperor, loading him with a grievous Calumny. *Arcadius* upon this blamed *Rufinus* for having preferred such a Man to so great a place. Whereat he taking occasion, and, as was thought at the Emperors Reprehension, making his purpose known to none, with a very few in his Company, went to *Antioch*; and coming in late at night, apprehended *Lucian*; and without any Accuser, called him to his Trial. He commanded him to be beaten on the Neck with leaden Balls till he expired, and then caused him to be put into a Litter, and covered, making all people believe that his life not being taken away, he should find some humanity yet at his hands. But the City knowing how the matter went, took it very heavily. Whereupon, to appease the Indignation of the Multitude, he built them a Royal *Porticus*, than which that City hath not a finer Building more splendid. After this he returned to *Constantinople*, more than ever set upon contracting Affinity with the Emperor: But an Accident happened which put him quite besides his hopes. There were two Sons of *Promotus*, who in the life time of *Theodosius*, were brought up together with his Children; whereof one of them had a Virgin with him of extraordinary beauty; by *Philostorgius*, said to be the Daughter of *Bauto*, or *Bauto*, who was Consul with *Arcadius*. This Maid, *Eutropius*, one of the Eunuchs that waited on the Emperor, advised him to marry; crying up her handfomeness: And when he saw him listen to what he said, he shewed him her picture; and thereby exciting his desire, persuaded him to take her for his Wife: *Rufinus* being ignorant of all, and thinking of nothing but that his Daughter should shortly be the Imperial Bride, and that he should be made by his Son in Law his Consort in the Throne, when she was once his fellow in his Bed. The Eunuch perceiving the business of the Marriage to be as good as done, commanded the people to dance and wear their Garlands, as was wont to be at the Marriages of Princes. And when he had taken a Royal Robe and other Ornaments out of the Palace, and given them to the Emperor's Servants to carry, he went through the City with the people before him. Every one imagined that these things were for the Daughter of *Rufinus*; but coming at length to the house of *Promotus*, there he caused them to enter; and by delivering them to the Virgin that was brought up with his Son, presently declared who it was that must be Empress. *Rufinus* being thus frustrated when he saw another woman married to the Emperor, and that it was too late to recall it, beat his brains to devise how he might destroy *Eutropius*. So went the Affairs of *Arcadius* in the East.

4. *Stilicho*, who governed all things in the West, had better success in the like Attempts; for he married to *Honorius*, his Daughter which he had by *Serena*, the Neice of *Theodosius* by *Honorius* his Brother. Besides now that he was strengthened

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Stilicho, with
his
honor
facile,
marries his
Daughter to
Honorius.

His Ingrati-
tude and
Cruelty to-
wards *Lucian*.

The Emperor
is persuaded
by *Eutropius*
the Eunuch to
marry another
woman.

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Rufinus plots
against *Arcadius*
and him.

He flies up-
on *Arcadius*
against the
Emperor.

Who, by the
Treason of
Antiochus and
Gerontius, in-
vades *Greece* in
a very hostile
manner.

Rufinus his fly-
ing concerning
Athens.

ed by his Emperor's Affinity, he had in a manner all the Towns of the Romans under his Command: For when *Theodosius*, after defeating of *Eugenius*, was dead in *Italy*, he, who then was Captain of the whole Army, kept to himself the front-est and most valiant of all the Soldiers, and sent those that were of little account into the East. Afterward being angry with *Rufinus* for having equalled his Power in the East to that of his, he purposed to go to *Arcadius*, and to dispose also of his Affairs at his pleasure; alleging that *Theodosius* upon his Death-bed gave him in charge to have an equal care of both his Sons. *Rufinus* perceiving his Intentions, endeavoured with all his might to hinder the Journey of *Stilicho*, and yet to lessen and weaken the Forces of *Arcadius* as much as possible; and bending his Endeavours this way, to bring them about he found out persons more wicked and fit for his turn than he could have desired; and by their assistance became Author of great mischiefs to the Roman State. There was a certain *Grecian*, one *Mulonius*, who aimed at the highest degree of Learning; and had three Sons, *Mulonius*, *Antiochus* and *Asiochus*: of these *Mulonius* and *Asiochus* endeavoured both in Learning and Integrity to excel the Vertues of their Father; but *Antiochus* his Inclinations ran quite contrary, and became an Instrument of dishonesty. *Rufinus* having in his head a design to make the *Barbarians* over-run *Greece*, preferred him to the Government of it; and withal, delivered the Custody of *Thermopylae* to *Gerontius*, who, he was assured, would be his Assistant against the Commonwealth. His eye all this while was upon *Marich*, whom he perceived to be seditious, and to labour to exempt himself from the obligation of all Laws, being discontented that he was not preferred to the Command of the Army, but was left only Captain of those *Barbarian* Forces which *Theodosius* had committed to his Conduct at such time as by his Assistance he subverted the Tyranny of *Eugenius*: To him he sends Encouragement, with all secrecy, to draw out such *Barbarians*, or other Troops of what Nation soever as he could procure, and march boldly at the head of them, with assurance to become Master of whatever he should approach.

5. *Marich*, in confidence hereof, departs from *Thrace*, and passeth into *Macedonia* and *Thessaly*, destroying all things in his way. When he came near to *Thermopylae* he dispatched away Messengers to the two lately mentioned *Antiochus* and *Gerontius*, to carry the News of his Approach. *Gerontius*, as he was instructed, caused his Guards to quit the Straits, and left free passage for the *Barbarians* into *Greece*; who being once there admitted, fell upon riding and wasting all the Country: The Cities they raze, they kill all the Males that were come to Puberty, and drive away the Boys and Women, together with the great Booty now in their hands. All *Bœotia* and other Regions of *Greece* which they once entered they depopulated, and the Devastation was still manifest in the days of *Zosimus*, *Thebes* excepted; which escaped their fury, partly by reason of the strength of its Fortifications, and partly because *Marich*, hastening to the Seige of *Athens*, would not make a stay about that City. And to *Athens* he came, supposing he should easily become Master of it, both for that the place was too large to be well defended; and he thought that being possessed of the *Piræus* adjoining to it, that so many Inhabitants would soon be pinched with want of Necessaries. But the Antiquity of the City (*Zosimus* tells us) in so impious an Invasion, implored Divine Assistance, and was to remain free from Devastation: and the Writer thinks himself concerned not to pass by in silence the cause of its preservation; being absolutely divine, and such as ought to excite all its Auditors unto Piety. When *Marich* came before the Town with all his Forces, he beheld *Minerva*, the Defenders thereof, taking a view of the Walls in the same shape as she was seen amongst the Images, viz. armed, and ready to fall on such as he had seen approaching. Moreover, if he beheld *Achilles* the Heroe just accoutered after the manner wherein *Homer* represents him to the *Trojans*, when in a rage he fought against them to revenge the death of *Patroclus*. With this Apparition *Marich* being frightened, omitted all manner of Hostility against the City; but sent and offered Peace to the Inhabitants: who accepting of the Terms, Faith for performance was given and received on both sides, and *Marich*, with a few in his Company, was admitted into the Town. There being received with all manner of Civility; when he had washed, and been entertained by some of the chiefest Citizens, who also presented him with such Gifts as they thought would please him, he departed from that City, and quitted all *Attica* without doing the least damage to it. And thus the City of *Athens*, which in the time of *Valens*, when all *Greece* was sorely shaken with an Earth-quake, alone sustained no loss at all, now also, though in so extreme danger, yet escaped.

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395.

How *Zosimi* se-
cular vide re-
hant conside-
tan a horrid
in *Athens*. ad
hanc *Athenas*.

Sect. 1.

Arcadius in-
vades Prætor
palat.

6. But *Alarich* having quitted *Asia* without doing the least harm therein, so much awed by the Apparitions he there saw, invaded *Megaris*; wherein having taken the first Town he met with by Assault, he halted toward *Peloponnesus*, never being found to make any resistance. And *Gerontius* giving him free passage through the *Isthmus*, he might easily become Master of all the Cities without any pains or Combat; for they were not fortified by any Walls, being thought secure enough in the Defence that should be made for them in the *Isthmus*. Presently then was *Corinth*, with the Neighbouring Towns, taken by Storm; and after it *Argos*, together with such places as lay betwixt it and *Lacedæmon*. And *Sparta* it self fell in also to the bargain, being partaker in this Calamity of *Greece*, for that it was neither fortified by Arms nor Men (as it ought to have been) through the Avarice of the *Romans*; but exposed to the Custody of such Magistrates as were Traitors, and ready to serve the lusts of those that were in power, in all things, though to the Destruction of their own Country. However, the Calamity of *Greece* now coming to the ears of *Rufinus*, increased the fury of his Ambition more than ever, which he hoped would better succeed while the Empire was thus disturbed. But *Stilicho* shipped his Men, and resolved to succour *Achaia* in this her distress; and landing in *Peloponnesus*, put the *Barbarians* so much to it, that they fled into *Phloe*; where wanting Necessaries, he might easily have ruined them, but that he gave up himself to mimicks, to Wenches, and other silly and immodest Diversions which he found in those Parts; affording, in the meantime, to his own Soldiers liberty of consuming what had been left by the *Barbarians*, whom he also permitted to depart with all their Booty out of *Peloponnesus*, and to pass into *Epirus*, the Cities whereof they harassed as they had done formerly those of *Greece*; which perceiving, he returned again into *Italy* without having any thing performed but this, that he added, by the Men he brought over with him, greater mischiefs to those which had been sustained by that miserable Country.

7. Being there arrived, he endeavoured to bring about the Destruction of *Rufinus* after this manner. He remonstrated to *Honorius* that it was needful to send over force to his Brother *Arcadius*, for the Succour and Defeat of those Countries which were so miserably oppressed under his Command; and having easily obtained Orders to execute what he proposed, appointed what Men should be sent under Conduct of *Gaines*, to whom he opened his mind, as to what he would have put in practice against *Rufinus*. *Gaines* having got near to *Constantinople*, sent notice of his Approach to *Arcadius*, and how he was come to his Relief with an Army now at hand: And when the Emperor expressed much Satisfaction therein, he persuaded him to come in Person to meet the Soldiers; affirming that this Honour was wont to be done to Military Men. *Arcadius* complying, met them out of the City, and the Soldiers there paid him that respect which was due unto him; who also made his Return of Civility for their Adoration: But then, the Signal being given by *Gaines*, when they had encompassed *Rufinus*, they cut him in pieces; one taking off his Right Hand, and another his Left, and another parting his Head from his Shoulders; whereat were given such shouts, and Triumphs expressed, as had been usual after Victories. And they so contumeliously treated his dead Body, that they carried his hands up and down the City, and defiled those they met to give something to that Infatiable Creature. Thus perished *Rufinus*, as he had justly deserved; who had both been the Author of insufferable Mischiefs to private Persons, and of great Calamities to the Publick State. But *Evagrius*, who all this while had been assisting to *Stilicho* in all things he devised against him, now governed all things in the Court; and most of his Estate he secured to his own use, though he granted liberty to all to readume what had been taken from them. His Wife and Daughter, for fear of perishing with him, had taken Sanctuary in a Church of the Christians: And then he permitted, giving them his Word, to sail to *Jerusalem*; which formerly was the Habitation of the Jews, but from the time of *Constantine*, had by the Christians been much beautified with Buildings.

Which de-
stroyed *Rufinus*.Evagrius go-
verneth all
in the East after
his death.What other
Historians
write of this
Subject.

8. Thus writeth *Zosimus* concerning the Ambitious Practices of the two Guardians, intrusted by *Theodosius*, presently after his death: To the main of whose story all other Authors agree, though some with variation of certain Circumstances. As to the Invasion of the Eastern parts of *Europe* by *Alarich*, they are of accord: But other Historians make mention of some parts of *Asia* also to have been over run and wasted by that Flood of the Northern Nations which *Rufinus* let out into the Empire. *Socrates* and *Sozomen*, our Ecclesiastical Writers, make mention of *Armenia*: But *Claudius*, the Pagan Poet, in the second Book of his In-

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395.

Sect. 1.

Arcadius
and Claudius
the Poet.

vective against *Rufinus*, reckons up many other Countries; who, though he particularly sets forth the Enormity of his Acts, yet possibly might be true enough in his Geography. Some *Barbarians*, he saith, at his call, by the way of the *Danube*, some by the *Cassian* Straits and the Snows of *Armenia* invaded the Riches of the East. Hereupon *Cappadocia*, *Lydia*, *Cilicia* and *Syria* were wasted, and hence came the Lamentations of *Asia*. In *Europe* they over-ran whatsoever lay betwixt the Borders of *Dalmatia* and *Pannonia*, with the *Adriatick* Sea: There no Cattel, nor owners of Cattel were to be found; but the Fields like to the Deserts of *Lybia*. In particular, *Thessaly*, *Macedonia*, *Pannonia*, *Thrace* and *Myfia* groaned under the burthen of so heavy Oppressors; in so much that the poor Inhabitants, as happens in long and grievous Calamities, were put past weeping, the thing being now made solemn and of course, and the custom depriving them of all fence of the Evil. Hereupon the Poet falls into a fit of Grief and Lamentation, considering how great things have a sudden period; how that that Empire, which with so much blood was obtained, and with so much preserved, with the labour and sweat of so many Captains, which in so many years the *Roman* Valour and Diligence had laid together, should in a short time be overturned by a Lazy Traitor; who, while all hands were at work to defend *Constantinople* from the rage of the approaching flames, beheld, as he saith, the Burning and Ruin of the adjacent Country with laughter; and boasted of his interest with the Enemy, whom he imitated in his very habit. The People of the East, though labouring under these miseries, yet had this misery more upon them, that they durst not complain, nor be seen to fawn a Countenance inclining to discontent: But if you believe the Poet, who, in his Poems against *Rufinus*, as well as the other written on purpose in commendation of *Stilicho*, still claws this person, secretly wished for his Coming; as placing their hope and confidence in him alone.

9. And as soon as the Season of the Year would give him leave, he made effectual Preparations for their relief, and got together both his Western and Eastern Troops; so many as scarcely had been beheld under one Command. There you might have seen the *Armenians* with their wreathed Locks, and their green Coverings made fast to them by easie knots; and the fierce looking *Galls*, with their yellow hair. Those whom swift *Rodanus*, slower *Araris*, whom the *Rhine* at their Birth did explore whether they could swim; and whom the more speedy *Garonne*, turned back by the Tide, did water, made there their appearance, and that unanimously, laying aside their former differences; he that had been lately bearen not hating him that had given him the Defeat, nor he that had the better priding himself in his success: But all together conspiring to favour and to love their General, though the noise of the late Alarms and Fights was scarcely ceased, and as yet their blood and spirits could scarcely be cooled. *Rufinus* was not so deaf but he presently had the noise of the Expedition; he grew pale, his confidence failed him: He stood doubtful whether he should run away, beg pardon, and submit; or betake himself to his Friends, the Enemies of the Commonwealth. His Wealth, his great Buildings and Pomp now standing him in no stead, he sighs, he moans, starts out of his bed in a distracted sleep, and suffers Punishment in the very fear thereof. At length, from Stupidity he returns to his own natural temper; and in a rage enters the Palace, and gets Audience of *Arcadius*; to whom he lays open the vast Ambition of *Stilicho*, the danger which threatened him his Minister, against whom all his Plots were levelled: He desires, nay, importunes him to divert the Storm; or else threatens that he will not fall alone, but that his blood shall be mixed with that of another person. Herewith he extorts a Message unto *Stilicho* from the unwilling and dissatisfied Emperor. *Stilicho* now imagined he drew near his Enemy, and joyed to think he should shortly come to an Engagement. The *Armenians* he placed on the Left, and to the *Galls* he assigned the Right Wing of the Army: But when he had now reached *Thessaly*, and longed to relieve the distressed Countries, a rumour is spread through the Ranks of Soldiers of new Orders arrived from the Emperor, which how to receive the General knew not, being so much disordered at so unexpected an Accident. At first he stands astonished betwixt sorrow and anger, admires that a Coward had so much power; and then considers whether he should proceed notwithstanding *Arcadius* his Command to the contrary, or else give over his so hopeful a design. He desires nothing so much as to succour *Illyricum*; but reverence of Authority and Obedience conquers his Valour: On one side, publick Convenience moves him; but on the other, fear of Reprehension. Having taken some passion, and exclaimed that *Rufinus* should thus procure the Destruction of the Empire, he gives

Rufinus forces
Arcadius to
send to Stil-
icho.Who there-
upon retreats.

A. D.

395.

Elle quem his
vires præstat
ingensia fatis,
superum lætas
questum fac-
tibus, aut Stru-
ctum quod
mille decem præ-
parat laboris,
Quid tanti
Romæ manus
contemnit sævis,
Proditor unus
iuris æqueque
tempore vestis,
Ora.

per amorem
suis perdidit
pauca.

Lik. 6. c. 1.
Lik. 8. c. 1.

vective

Command

SECT. I.

He refrains
the pride of
such Curiales
had arrived at
the degree of
Cent.

pay not in the Rates lately mentioned, they shall be levied out of their Estates. For, these Monetary Edicts for avoiding Inconveniencies were wont to be made, and published by the Prefects themselves.

18. At the latter end of the year complaints were brought by the Governours of Provinces to Arcadius, against certain Curiales who had been honoured with the Dignity of Comites. When they had run through all the Functions of their Corporations, or had well discharged a message to the Prince, for their pains and fidelity they were often rewarded with the Honour of Comites, sometime of the first, second or third Rank; some of them hereupon would be puffed up, especially with this privilege which belonged to their new Degree, that the Judges of Provinces were bound to receive them with a kiss, and to admit them to sit upon their Benches. As familiarity breeds contempt, imagining that they were now their Fellows, they behaved themselves contumaciously toward them; and though they were still subject to their authority, yet would they not obey their Orders. Upon complaint hereof made, Arcadius in another Edict directed to Casarius, declares, that such Curiales as had obtain'd the Honorary Comitiva Casarius, declares, that such Curiales as had obtain'd the Honorary Comitiva

A. D.
395.

L. 150. de De-
curionib. Cod.
Tit. de 1. 1. 1.
Cod. Jull. de
lit. dat. 4. c. 1.
Tit. de 1. 1. 1.

Honorius makes
a Law against
New-years
Gifts.

19. Honorius, at the beginning of the year, when he received New-years Gifts, found some inconvenience in the making of those Presents, which he thought fit to reform. The original of these New-years Gifts among the Romans is made by Symmachus almost equal to that of their City: for, he writes, that they were first offered to King Tatius, being no other than the Branches of a fruitful Tree which grew in the Grove of Srenea (the Goddess which made men strenuous or valiant, as S. Augustine reports of her, and had a Temple in the City) from which these Presents received the name of Srenea: they were also call'd Vota, because at this time were Vows and Prayers made, both in the City and Provinces for the health and safety of the Emperours; and that by a custom derived as high as from Julius Caesar, Augustus and others; though after Augustus his time, other Princes varied herein, some admitting of it, some not, but it appears that it was in force in the days of Arcadius and Honorius. On New-years day the Prefect of the City, as the Epistle of Symmachus, then bearing that Office, makes it evident, in the name of the Senators was now wont to present the Prince with some pieces of Gold (five Solidi) in way of gratitude and offering for his vigilancy and strenuous demeanour, with their lucky wishes for his prosperity. This custom Honorius now thought fit to admit of, but withal to prescribe and assign some Bounds to this liberality of his Subjects, by declaring in an Edict directed to Basilus, Prefect of Rome, That when the happy year is opened by these public Vows, for one pound of Gold shall seventy two Solidi of that they call Obryzium, be reckoned or valued; which value had been formerly ordained by Valentinian in the payment of Tributes. What should be meant by this Obryzium and Obryziack Gold, and whence the word should receive its derivation several agree divers ways, but by the Laws and otherwise it appears that by Obryzium or Obryziackum was understood Gold refined, or frothing, as it were in the fire, and flowering, from which resemblance it seems to have received its Name. Now whereas in the days of Valentinian the Elder, there had been a great change made as to Coin, in the value of the Aurei, which from eighty four in one pound of Gold were brought down to seventy two, and as Gothofred is of opinion, so as the Aurei did not increase in bulk and weight, but only in value, so as seventy two of these eighty four, were to be taken and esteemed for one pound of Gold, as hereupon the pound decreased, so Valentinian ordained that the prizes of things should decrease. And whereas it became a question, whether the Present made by the Senate at the beginning of the New Year should be after the old mode and custom of the City (which allowed more to the weight of Gold than what was usually assigned in the Provinces) or according to the like Ordinance of Valentinian, to encourage the Senate to this liberality which might be a means to preserve kindness betwixt the Prince and Nobility, Honorius declares that he will be satisfied with seventy two for one pound of Gold, provided it be of that called Obryziacum, or the purer sort.

20. About

SECT. I.

He gives ease
from Tribute
to several
Lands in Con-
suetudine.

Voluntary
Acts during
the late Ufur-
pation.

But the pub-
lick Acts of
Eugenius him-
self declared
null.

Possessors at
Acts of Indem-
nity to the Fol-
lowsers of Euge-
nius.

Flavianus is
deeply concern-
ed in any.

20. About this time complaint was made by some Inhabitants of Campania, that they were oppressed by the Collectors of Tribute. For, Campania, as we have said, being a Country lying near to Rome, and subject to several Impositions for maintenance of the City, had, however from its fruitfulness it was termed Felix, yet several barren and unimproved Grounds which were wont to have indulgence or immunity from such Burthens. Yet scarcity of Provisions pressing the Citizens, the Owners of those Lands were it seems called on, and a new Book of Rates had been made, wherein they were all Cessid to afford a share. Upon complaint hereof made, Inspectors were sent down to consider, and report the matter how it stood, and their report so far approved the complaint, that Honorius now by an Edict directed to Dexter the Prefect, declares immunity to five hundred twenty eight thousand and forty two Acres, which appeared from the old Records to have enjoyed formerly the like privilege. And as some indulgent Emperors had done before him, he commands the New Books, called *Confusarii* and *Polypetici* to be burned by this same Law, which is rationally thought to have been made in obedience to Theodosius, who, as S. Ambrose relates, did in his last Will and Testament give order for such Relaxation of Tributes. And whereas under the Tyranny and Rule of Eugenius, being of such continuance, many voluntary Con- tracts had been made, and other matters had passed as in ordinary course of Law, Honorius, to prevent confusion, and unravelling all things in the Countries that had been subject to him; thought fit by a Constitution inscribed to Andromachus, Prefect of Rome, to confirm all Acts which had happened voluntarily between party and party, without any fraud, force or fear. But with this Proviso, that in all Instruments, the Names of his Consuls (these were *Abogastes* and *Nicomachus Flavianus*, his two great Friends) should be abolished, that they might not receive the reverence usually made by acclamations when there was occasion to bear their names read or mentioned in Courts. And whereas upon the omisions of the names of Consuls in Deeds or Instruments, a valid exception lay against them; he declares this shall be no Plea in Law, but they shall be of force however, though with such omision; the time of Tyranny or Ullurpation being esteemed as never to have been, and whereof nothing could be prescribed.

21. The publick Acts of Eugenius himself were now declared null and void, as was wont to be done in such Cases; and not only his, but some of those of Maximus also, though dead several years before; for, some time was required for bringing to light several inconveniences arising from what passed during this long Ullurpation. He had alienated some Lands of perpetual Right, as they called them, belonging to the *Resprivate*, or Patrimony of the Prince, and that by Institution and Decree of the *Rationales*; whereas these Alienations belonged not to them, but to the Ordinary Judges of Provinces, and therefore by an Edict directed to Eulogius now Comes R. P. the Emperour declares that such as had come by such Lands in such a manner shall be deprived of them. Not only such as had obtained the free publick Lands were forced to quit them, but those who had served in the late Ullurpation of Eugenius, as Soldiers, or had some Offices under him, were as Traitors branded with Infamy. This continued till Honorius began to bethink himself of his dying Fathers Commands and Example; who, as he left order in his Will, that indulgence should be shewed to his oppressed Subjects; so while he lived, he manifested much clemency to them he had already subdued; and made not such advantage of the successes of his Arms as he might have done; and dying so soon after his Victory, time was wanting to him, but not intention, to shew much more his Generosity. Therefore in a short time did Honorius enact a Law, directed to several persons, to be published in their several Jurisdictions; wherein professing that he ought to follow his Father's pattern, He pronounces pardon to all such obnoxious persons, and declares that he will place his kindness upon such as could not think of any such Beneficence; ordaining that those who fought under the late Tyrant, had discharged any Office under him, or been promoted to any Honorary Dignity, in what state or quality soever, shall not sustain for so doing any Infamy, or be polluted as he terms it, with any ugly name: but that they shall enjoy whatsoever Dignity they stood possessed of, before the time of the forsdard Tyranny.

22. In this Act of Grace and Pardon none was so much concerned as Flavianus the Prefect, whom, though some Writers relate to have died at the Fight when Theodosius passed the Straits, and entered Italy; yet that he survived the Victory; and lived to feel the effects of his clemency, we find in the Epistles of his dear Friend Symmachus, who took great pains in his behalf. The person he applied himself to

Q q q 2

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395.

L. de Indul-
gentiis. Cod.
Tit. de 1. 1. 1.
Cod. Jull. de
lit. dat. 4. c. 1.
Tit. de 1. 1. 1.

L. 9. de legi-
bus. Cod.
Tit. de 1. 1. 1.
Cod. Jull. de
lit. dat. 4. c. 1.
Tit. de 1. 1. 1.

Epistol. Jovis
ad Emilianum
Tit. de 1. 1. 1.

L. 10. de offi-
ciis. Cod.
Tit. de 1. 1. 1.

Epistol. Jovis
ad Emilianum
Tit. de 1. 1. 1.
Cod. Jull. de
lit. dat. 4. c. 1.

Sect. 1.

For whom
Symmachus
much tickled.

as Mediator, was *Stilicho*, one who could best do his business, and he did it so effectually, that *Symmachus* gives him thanks for it in several Letters. In one he mentions how the Father of the Princes, now received into Heaven (*Theodosius*) had shewn before his death several examples of his clemency, and had restored to his *Flavianus*, whom he calls his Son, and sometimes his Lord (their unity in *Pa-* ganish Superstition, as well as in other respects, caused this dearneſs) many things which by accidents had been taken from him. That one and the chiefest Title of goodness was reserved for his Heir (*Honorius*), which at length by his advice (meaning *Stilicho*) he had added unto his Father's Gracious Acts, concluding with himself, that time, and not any will was wanting to him that was deceased. But now (he adds) these Works of Clemency which by Fate had been interrupted, were by his Successor, most like to him in this respect, brought to perfection: that he had consummated what his Father had begun: as a reward for which, he wishes him such Adversaries (*Monitores*) or Counsellors as *Stilicho* himself, and those that are of the same humour, those who suggest honest and honourable things to Sovereign Princes, being the Instruments of a good Age. He acknowledges that in *Honorius* was a wit of a divine fountain, as he words it, and a nature prompt to all virtue; yet to use the comparison, the best Pilots might find assistance from the hands of the Rowers: he tells him, that he was rendered more careful of his fame, both by the trust he had in the Army, and the affection he bore him, as a Relation: and hence it was, that he invented for him ways of gaining love; and when he was employed in the greatest Affairs, advised him to have an eye to the condition of private men. But such evils as are incident to humane life are banished, and in the Senate is nothing sorrowful to be seen. To fame, honour is given; to others it is restored. To one Family we owe whatsoever we are in particulars. What he speaks of here in general, he explains in some of his other Letters, wherein he signifies he was called to Court by the interposition and procurement of *Stilicho*, which they termed *Evocatio*, for in those times scarcely was it lawful for any to come thither, and leave their Country without leave first obtained; it being a special privilege granted to the *Decuriones* and the *Silentiarii* of the Palace, that after they had served their time, they might come when they pleased without the security of an *Evocatoria*. He writes moreover of his being called to the Dignity of *Consul*, and restored to the *Præfectship*. But before *Honorius* had given perfection to what his Father had done, he being incumbered with his small fortune in several difficulties; by various Letters, written to several men in place, he laboured to raise him Friends: *Protadius*, he prays to assist him in the matter of some payment due from the Soil, from his Father's time; alledging he was not able to undergo so heavy a Burthen. And to *Florentinus*, whom he solicits in the same matter, he expresses that having already obtained great things by the lenity of the deceased Emperour, that he may so stay, he is yet fringed with this one knot of misfortune, being poor, and his Patrimony exhausted. Wherefore he tells him, that he, and such as he, ought to prevent his imminent Ruine. Thus tickled *Symmachus* for his Friend *Flavianus*.

Fugitives in A.
frick restrained
from deserting
their stations.

23. At this time great Reports came out of *Africa*, that the *Curiales* generally deserted their stations, and consequently the Honour and Safety of the Cities which consisted in their Attendance and Services, much decayed. This drew out an Edict from *Honorius* to *Ennohis* the *Proconsul* of that Province, concerning the Nominations to be made of these persons, suitable to those of his Predecessors formerly related. And because to shun their Employments they pretended to travel, or to serve in the Wars; he now decrees, that if in the term of five years they do not return, their Estates shall be seized to the use of the Courts, for the discharge of the Duties and Charges from which they ran. Moreover, to gratify the *Africans* in a matter wherein custom had engaged their affections, he decrees, that those of them called *Sacerdotes*, which were ordained for celebrating of Games, should be restored, pretending therein to renew a kindness formerly granted by his Father. Further, because great men were wont to receive these Fugitives under their Patronage and Protection, in *Italy*, as well as other Provinces, he thought fit to signify, a month after, to *Dexter* the *Præfekt*, that whoever should harbour a *Curialis*, should forfeit the quantity of five pounds of Gold, and one pound for harbouring one of these they called *Collegiati*. But as complaints were made against *Curiales* their forsaking their Employments, so about this time against some Judges or Governours of Provinces for employing themselves too much in the hearing of certain petty crimes, which it was below their quality and degree to take notice of, and rather belonged to those inferior Magistrates

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Lib. 4. p. 7.

Interpretation

Præfekt

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Sect. 1.

And Govern-

ment from

meddling in in-

ferior Causes.

Asallo Milita-

ry Persons

from meddling

in Civil Mat-

ters.

He regulates

the Payment

of the Jurors

Oblatium.

Magistrates they called *Irenarchæ* or *Defensors*, and Assertors of the Peace. One *Papophilus* was the Man that most bore the blame; and to him *Honorius* sent a Preſcript in nature and force of a Law, To restrain his Covetous humour, and let him know what Causes he thought below his Cognizance: Such were those of a Slave that is run away; of Theft, whether manifest or not manifest; the taking away of Cattel, Slaves, any Goods by force; seizing on things Moveable or Immoveable, as on some small piece of Ground, Dung, or some Cottage. An Interdict or Prohibition relating to some Momentary Possession, which sometimes happened upon slight occasions; the removing of Cattel, and other small matters, wherein the Accuser was not to be forced to any Infcription; of which we have formerly spoken. He tells him he will have him Judge of Criminal Causes only relating to this Infcription, and of fit moment for his Authority; imposing a Fine of five pounds of Gold upon those his Officials whose Employment it was to stand at the *Velum* or Curtain, and to introduce Persons into the *Secretarium*, if they suffered any of these petty Causes to be entered and admitted. But *Justinian* afterward approved not hereof, but left the meanest Causes to the Cognizance of the President of the Province: Upon which account *Tribonian* omitted to put this whole Law into his Code, but he hath taken three pieces or Sentences out of it. So various are both the Humours and Exigencies of times.

24. As some of the Civil Judges now a days condescended, out of a desire of gain, to intermeddle in things that were below them, so there were Military Men who thrust themselves into Civil Employments that were out of their Sphere, and above their reach. This tended to the overthrow of Discipline, and such persons by terror of their Arms, might purforce and constraint upon the Actions of Men; and upon these grounds now did *Honorius* prohibit all those that did *Militare* (in which sense and meaning not only Soldiers in Arms, but Palatine Officers and Officials of Judges by the force and extent of the word may be included) to be Judges, Advocates or Professors in Causes, though they had *Commeatus* or License to be absent from their Colours or proper Employments: And if any should, after the term granted in his License, continue in the Province, he commands that by Order of the Governor of that Province he be punished with Regardation, or put into a place and station inferior to what he held before, as stragglers and idle persons were wont to be punished. But now the time approached when the Senators were to make their Presents to *Honorius*, called *Aurum Oblatium*, to express their joy for his coming to the Government: For this Gold was given of free Will, not by necessity and compulsion, as was that called *Glebalis Collatio*; nor with others, as that called *Aurum Coronarium*; but by the Senate alone upon such occasions, as were the Beginning of a Prince his Reign, his Quinquennialia, or Decennialia, and the obtaining of a *Victory*. From *Symmachus* it appears that when this Oblation was to be made, the *Præfekt* of the City was wont to call together the Senators that were in Town, or those that were nearest to it, to consult concerning the quantity and manner thereof; and when it was once voted by them, then it became a necessary Duty. When it was voted, thereof the *Præfekt* gave account to the Emperour; as *Symmachus* doth, in an Epistle written to *Valentinian* the younger; wherein he acquaints him that the Senate had exceeded the Sums given to his Predecessors: for his Father and Uncle for their Decennialia had received less, and so had his Brother *Gratian* when he celebrated the third *Lustrum* of his Reign: But to him, the Fathers had promised one thousand and fix hundred pounds of Gold for the honour of his Decennialia, and that to be weighed by the great Weights of the City. Now, to avoid distraction in the Payment, *Honorius* ordains that such Senators as lived in the City, though they have Possessions in distant Provinces, shall pay it where they dwell, their Rents being wont to be returned thither by their Officers; but of those that had their Abode in the Country, the *Consules* shall receive it; of which there were some that were employed in the Provinces as well as those in the City (of whom we have so often spoken) the Employment of whom it was to dispose of the Collection of such Dues as were paid by Senators.

25. Whatever *Honorius* received now in way of bounty or otherwise, he was deceived much at this time by such as were continually begging of him, there being several Estates fallen to him by the Overthrow of *Eugenius* and his Party, notwithstanding the Act of Grace this Year published. Several Princes several ways had formerly endeavoured to obviate this Trade of those gaping Courtiers, who, when they begged things of greatest value, were wont to dissemble and conceal the greatness of them. Some Princes would not hear nor make any Grant till the Goods

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Interpretation

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custom was to preface the Wills with a Declaration what sort of one they purposed to make, and what Witnesses they intended at the Publication. But then he requires the Legal Requisites about Witnesses, as that they be five in number ; that they be called for that purpose, and be not ignorant what they come about, and the Testator see them present. But he declares that there is no need that they know the Contents of the Will ; but the Testator may declare that Writing to contain his last Will and Testament, and desire them, as such, to set to their Hands and Seals. And lastly, moved by the Opinion of the great Lawyer *Scaevola*, and swayed by his Judgment, he thinks it lawful for the Witnesses to have Legacies left them without taking away their Testimony, and so rendering the Will Null, and of none effect. As for the five Witnesses, they were ordained to be so many by the ordinary Common Law : When the Will was made, as they say, *per as & libram*, by way of Sale by Money weighed in a Balance, there being then present, besides the five Witnesses, he that held the Balance and he who was said to buy the Estate or Family. But else, by the Law of the *Pretor*, when this Solemnity, *Per as & libram*, was not in use, no fewer than seven Witnesses were to be present.

34. Such reason did the *Romans* find to be so accurate and careful in the making of Testaments, wherein whole Estates are wont to be conveyed. It was free for any one to make use of whether of these Courses they pleased, either of the *Æs & libra* when *Mancipation* was made, or of seven Witneses when it was not; for they were fill both in use in the time of *Arcaidius*, though afterward, when the *Prætorian* and *Civil Law* became united together, the use of the *Æs & libra* by degrees grew obsolete, and the use of five Witneses came to be generally received. So the Law stood as to Testaments; but as to *Codicils*, seven Witneses were thought fit to continue. These *Codicils*, as to their first Original, were Writings

thought fit to continue. These *Codicils*, as to their ninth Original, were made by the Testators for a Supply or Amendment to their Testaments; but afterwards they were made when new Testaments preceded, and when otherwise the Party died intestate; and in this case because in reality they had the force of Testaments, and operated accordingly; therefore as great a Solemnity was requisite at the making of them; although, if a Testament did precede, then no Heir could be instituted by virtue of a *Codicil*: And afterwards *Justinian* absolutely forbade that by a *Codicil* any Heir should be instituted. But that we may join things of the same subject which happened in near together, and were ordained by the same Person, *Arcadius* the following Year, by an Edict sent to *Africans*, the *Prefect of Constantinople*, commanded the old Custom to be observed, of opening or publishing Testaments, after the death of the Testators, at the Office of the *Cenſuſes*; or before the Maſter of that Society; otherwise he would have them void and of none effect. This was a certain Courſe to prevent Frauds, and here was the Register wherein were recorded, inſinuated and preſerved not only theſe Publications of Testaments, but other things, as Contracts, Donations, and the like.

Whether a Legatee can be a Witness.

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practised it; as he tells the story himself in a Relation made by him to *Theodorus* concerning the Testament and Estate of one *Agurinus*. The Estate being granted away, as fallen to the Treasury, in case no Lawful Heir appeared, amongst other Tricks this Objection was made; that the Witnesses had a Legacy left them in the Will, and a Receipt of the Emperor's was alleged to prove that the Testimony of a certain Witness was rejected, who by his witnessfulness would have helped his own Cause, as if it was the same thing, and a little respectively owed to the Witnesses, merely out of Friendship, could hinder or abolish a Lawful Judgment. If, faith he, we should live under such Laws, it would be better and safer to have our Enemies for Witnesses, to whom for their Enmity the Testament would be fure to leave nothing: I am grieved to say that the greatest Legacy amounted but to five *Soldis*; the rest being rather remembered than gratified with any Summ of Money. Therefore the Estate is very pitiful and inconsiderable, if so small a matter can derogate from the Testimony; or if it be ample and large, so small a Summ given in Legacy ought to be void of suspicion: Who is there that doth not fend for the best Friend he hath when he makes his last Will and Testament? And what wonder is it, if out of respect to the Sacred Bond of Friendship, he that is fent for deferveyth something wherewith to remember the Testator? I speak not for such a Witness to whom a great part of the Estate is given; for though his Confidence may be good, yet he gets his Wealth with little Modesty. But these Legacies (I speak of) were small Pledges left out of love, or else for shame (for the trouble to which he put them) given by the Testator. This Religious or Decent Course is not contradicted at all by new Laws: Only, since the Memory of Man, one *Rationalis* (to whom the matter of Elcheats did belong, as we have seen) hath appeared and adventured to introduce a new way of Judicature. Hence came the Appeal to be made, wherein he mentions another trick to cheat the Heirs; such ill Instruments will there be, even of the best Princes and chief Judges: But such was the Judgment of *Symmachus*, whose distinction betwixt a small Remembrance and a great part of the Estate left in a Legacy, is to be taken notice of. In the first case, it's trifling to dispute the matter; In the Second, some have been of Opinion to admit the Testimony in other parts of the Will, wherein the Witness is not concerned.

Barbarous Nations infest the Empire.

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Cities.

He publisheth
an Act of Re-
sumption.

Asserts that a Petition presented to himself shall be held for a Contestation of the Suit.

36. But the Barbarous Nations at this time were still so troublesome as to infect several Countries in the East. *Philorgius* wrote of two Armies of the *Huns* which about this time infected the Empire; whereof the one made an Incursion into *Thrace*, and the other into *Armenia*, and others of the Eastern Provinces, as *Syria* and *Cilicia*. Besides them, in *Lybia* of *Pentapolis* and *Egypt*, 4 People called *Maesuriani*; and another known by several Names, as *Aufuriani*, *Auforiani*, *Aufuriani*, *Aufuriani* were tumultuous; so that the Inhabitants were forced to keep themselves within the Walls of their Cities, as they were commanded. Now, in times of Invasions and Irruptions, fenced places being the only Refuge of the poor Inhabitants; *Arcaudius*, by his Edict directed to *Caeleus*, gives him in charge, that he should write Letters, to admonish all Governors of Provinces; and let them know, that the Senate and People of all Cities must either build new Walls, or well and fufficiently repair those that were old and decayed. In the first place, he would have them consider how much Money would be necessary for these Works; that more than need, and no less than is convenient, be imposed upon the Province: That, that an Indiction or Tax be made as is equitable, and according to the Possessions and Possessions of the Inhabitants, by the number of Acres. As he thus proceeded for the safety of the Provinces; so to strengthen himself and improve his Estate, he thought first at this time to publish an Act of Redemption, for recalling of these Lands which had formerly belonged to his Domain or *Res Privata*, declaring that no Prescription should avail the present Possessor of what could not be proved private Men be possessed; neither any new Pretence, nor yet any Rescript of private Princes should be sufficient to retain that which never ought to have been alienated. To assert his own Authority by another Law, he declared shortly after, that at a Libel or Petition presented to the Prince should be taken, and reputed for the Contestation of the Suit. But that an Heir could have no benefit thereby, nor in any Action, if his Predecessor deceased, had no Cause of Action himself; so that though in case of a Sale there was Cause of refunding of it, which could be excepted, except one half of the Worth was not bargained for: Yet if the deceased had neither contested the Suit himself, nor petitioned the Emperor (which was the force and effect of a Contestation) the Heir could not have the Sale, except it could be proved that the Sale was made out of fear, and by compulsion.

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whether she died Testate or Intestate, that they may receive the maintenance rather of an Ingrateful Daughter, than any real advantage and name of an Heire; For they ought to be more mildly Sentenced, who by reason of the Infirmary of their Sex, we believe will not be so daring. If Emancipation shall, after the making of this Law, be conferred either upon Sons or Daughters, let it be of no effect. Portions to Daughters, Donations and all sorts of Alienations which shall appear by Fraud or according to Law, to have been made from that time wherein they had thoughts of entering into the said Faction and Society, we pronounce to be of no force. Their Wives, their Dowers being recovered, if they have received any thing in way of Donation from their Husbands, on condition that it be referred for their Sons, at such time as the Ulfructus is over, shall know that they shall leave all to our Exchequer, which by Law was due to their Sons; a part being assigned of this Estate, according to the *Falcidian* to the Daughters, but nothing at all unto the Sons. What we determine concerning their Sons, shall with the same severity be inflicted upon their Partisans or Defenders; such as were conscious to their Crime, their Ministers and their Sons. Indeed if any of them in the beginning, or when they enter into the Faction, stirred up by a desire of true Praise, shall discover the said Faction, he shall be both rewarded by, and receive Honour, from us. And he that shall proceed in the Faction, if though late, yet he will reveal their Councils, that are not known, shall only be accounted worthy of Absolution and Pardon.

Which afterwards became very Famous.

48. This Law, though made upon this occasion, became in after times very famous. Forty Years after the making of it *Theodosius* the younger, thought fit to put it amongst other Constitutions of Christian Princes, of which his Code is Compiled; and so did *Fulfinian* in the Age following, Translate it into his; moreover in all Books written in the *East* concerning Law it's still mentioned. In the Western parts indeed for some Ages it was not known; as neither the better part of *Theodosius* his Code, nor any of that Body collected by *Fulfinian*. But as soon as *Fulfinian* Books were discovered here, this Constitution saw the Light, and got not only Interpreters but Imitators, and Transcribers both in the Palace and elsewhere, so that it began to be produced and fitted to many other Occasions. *Gratian* a Monk of *Bononia*, about the Year MCL compiling a Body of Pontifical Law in Imitation of *Fulfinian* Books, (which first then came abroad in the *West*) Intituled by him *Concordia discordantium Canonum*, but now called *Gratian's Decree*, and as some say was approved by Pope *Eugenius*, amongst many more constitutions of Princes, put this into it, and so Canonized it. And *Charles* the fourth Emperor inserted it in his Golden Bull, so much celebrated amongst the *Germans* about the Year MCCCLVI and applied it to the *Electors Ecclesiastical and Secular*. Some Critics carp at it as cruel, blaming *Fulfinian* for Transcribing it; and others as earnestly defend it. No Law hath afforded occasion of more Controversies, Decisions, Reports and Councils, while Lawyers dispute to what Persons and Estates it's to be extended, in so much that not only Glosses but Books have been written upon it; and such as professedly write concerning Treason, have made it the foundation of their Discourses, though the original Occasion and historical Causes have been touched by few, and that very lightly, till *James Gothofred* made it a subject of an entire Discourse, the History of this time being very scant and nothing said of it by those few Writers that are still remaining.

Though the historical Cause was little understood.

The Subject of it.

49. However, the Subject of it, is the Contrivance of the Death of such Persons as were next to the Prince in Government or Dignity, and that by entering into a Faction or Association, which *Arcadius* by his Legislative Power maketh Treason. The design of it is to prevent Murder, and this designed Murder is declared Treason, upon which double account it is inserted into several Codes under several Titles; as in that of *Theodosius* under the Title of Murder, and is joyned to the *Cornelian Law* de *Scariis*; into the other of *Fulfinian*, under that of Treason, and joyned to the *Lex Julia Majestatis*, several other Constitutions being thus inserted into several Books, under divers Titles, for the like reason. Now there are four sorts of Treasons; *Crimina Læ Majestatis*. The first is, when any beareth an hostile Mind against his Prince or Country, as to overturn the State, disturb either in whole or in part the public Peace, quiet and security, by exciting foreign Powers against the Common-wealth, or endeavouring their relief in any kind, when in a State of Hostility. This is the highest Treason, called in Latine *Perduellio*, whereof in the highest manner they are guilty, who contrive the Death of the Prince whose Person ought to be Sa-

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cred; or the depriving him of his Crown and Empire. The second sort is the *Crimen læsæ venerationis*, when Reverence due to the Prince, and necessary for preserving Government and good Order, is violated by any naughty Fact or word, as by opprobrious Language, breaking his Statues or abusing his Pictures. The third kind is when the public Power or Authority is violated; as by resisting, abusing or striking a Judge or Magistrate who is doing the business of the Prince, is in the just exercise of his Power; or by arrogating to ones self something belonging to Majesty, as Coynying of Money and the like; as the defacing of Coyne, is doing Violence to the Sovereignty. The fourth is, when any other Crime, by reason of its greatness, or ill effects, is though it be not so in its own Nature, declared to be Treason or made such, as several things with us have been made Felony and Treason, as the holding of such and such Tenants in Religion in the Reign of *Henry* the Eighth. This Treason is precarious, in Latin *Majestas Precaria, Fictitia, Exemplaris*, and *Quasi Perduellio*. And such is by this Law, made by *Arcadius*, the contrivance of the Death of such as were about him, to whom he doth as it were Communicate his Majesty, as Wives are said to be irradiated by the Beams of the Dignities and Honours of their Husbands.

50. The Persons by and with whom these Factions were made, were either Souldiers or private Men. By Private in this Age, were meant not only such as were by this word, distinguished from the Prince, and from Magistrates and Dignified Persons, but such as were not in military Employment, being otherwise also in Latin called *Privati* and in Greek *Idiotæ*. Both these sorts were either Natural Inhabitants or Barbarians, by which are to be understood not such as were called out of Barbarous Countries, for carrying on some Plot or Design, but such as indeed had filled the Empire since the time of *Valens*, who gave to the *Goths* Ground to Inhabit in *Thrace* and other Countries; the main cause of all the Calamities wherewith the Empire was at length oppressed. Under *Theodosius*, when *Athanarich* was dead, his Souldiers also submitted to the *Roman* Empire, and were made one Body with the *Roman* Militia, as several writers testify, so that Barbarous Souldiers lay at *Constantinople*, and the *Goths* were placed particularly in *Phrygia*: Nay, now they might either be Souldiers or live privately; they bore, as we have seen, Offices of Magistracy, and were promoted to Dignities, *Illustrious, Senatorian, Palatine* and *Provincial*. The Persons whom *Arcadius*, by denouncing the Pains and Penalties of Treason, labours to protect, are also of three sorts; *Illustrious Consistorians, Senators*, and such as did *Militare Principi*, or serve the Emperor. By *Illustrious Consistorians* who are meant, sufficiently appears by what we have formerly said of these great Persons, as also by *Senators*, who were in highest esteem, during the Reign of the Author of this Law; but whom we are to understand by *Militantes* is more obscure. Not certainly those that served in the Army, or every Souldier as the *Greeks* grossly interpret it, as if *Arcadius* had by this Constitution made the Person of every ordinary and common Knap-sack-carrier, *Sacrosanct*. Neither can it be only those of the Emperors Guard, or those that watched about his Body, as the *Domesticks* and *Protectors*, as others have mistaken, though they indeed may more properly be said *Militare Principi*, and *intra Palatium Militare*, whom, for their care of his Person, *Arcadius*, in one of his Constitutions, calleth *Domestissimi Militares*, as is most evident to all that know any things of the Laws or Monuments of these Ages, signifies to serve the Emperor in his Palace, though not by the Sword, as well as in the Field; and the *Palatine* Officers are called *Militia* as we have seen sufficiently in the *Polity* of the Empire.

51. For as much then as it cannot be imagined that every common fellow of the Guard, or of the keepers of the Body, whereof there were many, should be so valuable, as to have a Ray of Majesty Communicated to him, and be made *Sacrosanct*, we cannot but be of *Gothofred's* opinion, that such are in this Law to be understood as Exercised *Palatine* Dignities, as the *Comes Domesticonum*, the *Cassrensis Sacri Palatii*, the *Primicerius Notariorum*, the *Magistris Scriniarum*, the *Comites* and *Tribuni Scholarum*, the *Tribunus* or *Comes Sacri Stabuli*, and others. For, these, in a peculiar manner and by way of Excellency were said *Militare Principi*, who in consideration of Place and Dignity were joyned with Senators, as by the Laws any may perceive, with whom it is absurd to imagine that ordinary Souldiers, common *Satellites*, or ordinary *Domesticks* or *Protectors* should be joyned, and partake with them in so vast a privilege, as also to think, that so great a Faction and Conspiracy should be raised against such inconsiderable Men, and this made such a crime, that all that were but ministerial and conscious to it, must be so severely

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SECT. I.

verely punished. But, not only these great Court-Officers are here to be understood, but Provincial too, both Civil and Military, who are all said *Militare Principi*, being all girt with a Girdle; which Custom extending of old to others as well as Soldiers, is now beyond the Seas as ordinary amongst Lawyers and Physicians, who use the Callock and Girdle in their Employments in Courts of Justice, and when bearing any Office in the Schools, as well as Divines. This was agreeable to the *Fulian Law* (to which this Constitution is added) which made it Treason to compass the death of any Roman Magistrate, or such as had Command and Power. These being generally the Creatures of *Eutropius*, or to whom he was obnoxious for receiving their Money, were thus secured by the Severities of this Constitution; which, we may easily enough conclude, was extorted from *Arcadius*, to protect the Power of the Eunuch and his Dependants, and hide the Crimes of these Officers he had preferred.

52. However, this took something off from the Solemnity and Designment of the Law, that it was but part of a larger Constitution directed to *Eutychianus*, the *Præfectus Prætorio*; who had made Relation to the Emperor of what Mis-carriages he found in the Provinces. The foregoing Year *Arcadius* had thought fit to prohibit the collecting of what was due from Senators in the Country; or the *Glebalis Collatio*, by the *Curiales*; lest they should oppress or offer Injury to Persons of that Order, which at this time they were prone to do: And appointed the *Ap-paritors* of the Governors of the Provinces to the Employment; requiring those who were the *Defensores* of the Senate to see this done accordingly; and that if the *Curia* of the City or Town thought fit to have a *Censor* or *Peræquator* sent down, he should have nothing to do, or intermeddle in the matters belonging to the Senators.

The *Curiales* appointed to collect what was due from Senators as formerly.

This was put in practice by *Cæcilius*; but such was the success, that now *Eutychianus* his Successor made known unto *Arcadius*, that the *Officials*, or *Aparitors* were so improper for the Work of Collecting, that in some Provinces one half of the Tribute was behind, or never called for. This could not be endured, that so considerable a part of the Revenue should fail; and therefore *Arcadius*, by this Rescript, commands, that the Collection be restored into the hands of the *Curiales*; but that, what he had declared the Year before concerning Senators, should also be observed. This was to prevent all Commixtion of the Concerns of Senators and *Curiales*, lest the Senatorial Dignity should grow vile and contemptible; for the *Curiales* being most commonly conceived, and ill bred, fancied themselves almost as good Men as the other, they being a sort of Senators of Cities and Corporations, and their Courts an Image or Remembrance of the Senate itself. Hereof the *Defensores Senatus* were to take care; a strange sort of Officers. Because the miserable *Plèbs*, or Common Sort, stood in need of their Defensor to protect them from the Infidelities and Injuries of the rich *Curiales*. Must the great and mighty Senate at this time stand in need of its Defensors too? But so the Case required; all sorts of People being ready to devour one another, and the *Curiales* being too bold and saucy in the Management of these Collections; which, yet it was necessary, should still continue in their hands. But, considering that this Law and the late famous one of Treason made up one Constitution, we may gather, that the Senators themselves lay under such prejudices, that they stood in need of *Defensores*: And *Arcadius* provided both for their Dignity and Security, as well such as lived in the Provinces, as in the City.

53. Toward the latter end of the Year we meet with another Edit of *Arcadius*, to this same *Præfect Eutychianus*; which, at the first Entrance upon it, one would imagine to have been sent to mitigate the Rigour of that severe Law of Treason; but that the Conclusion, as well as the Title, under which it is set, frustrate utterly such Expectation. But, though *Eutropius* would not be so plausible to take off any Prosecution of such as might conspire against him and his Accomplices, yet upon Complaint of how many were accused of other Crimes, and their Estates thereupon confiscated and seized by him, he might think fit to put some stop to the Clamour, by procuring a little Restraint to the extravagant Prosecutions in this kind. Former Emperors had imposed the pain of burning alive upon such Slaves as accused their Masters of any Crime, except it was Treason: He now changes it from Fire, to the Sword; but commands, that before the Production or Examination of Witnesses, at the beginning of the Accusation, they be put to death; and not only Slaves, but others he calls *Familiares*; by which are not to be supposed such as in general Terms we call Familiar Friends, as if one Master of a Family might not accuse another without this Punishment, but those of the Person's Family; as one brought up or nourished in his House, or his Clients and Dependants. What ever

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SECT. I.

ever the occasion was, the Law it self is agreeable to Modesty, good Nature and Gratitude; supposing that these cannot be broken without some horrible Malice or Unworthiness in the Party. *Arcadius* closed this Year with another feasible and good Edit, to avoid confusion of Jurisdictions, and harassing the People by drawing them from one Tribunal to another; as also, to curb the insolence of Military Men, now grown to a very great excess. They had been formerly prohibited to intermeddle in the Decision of Civil Controversies, yet some of them had the confidence still to concern themselves in such Affairs; as we see all Courts draw whatever Grift they can to their own Mills. But this was now made to appear a matter of so very ill consequence, That he declares to *Arcadius*, the *Præfectus Augustalis*; that if any shall so neglect the Order of the Judges, and without the Prince's Rescript, sue before any Military Judge, besides the Penalties formerly inflicted, he shall suffer Deportation: and moreover, his Advocate (who ought to know and inform his Client of the Jurisdiction and Nature of Courts) incur a Fine of ten pounds of Gold.

Military Judges prohibited to meddle in Civil Causes

Honorius intent upon the War with Gildo.

54. The mind of *Honorius* was this Year intent upon *Africk*, and the Consequences of the Revolt of that Country; and when he, or his Governor *Stilicho*, thought how to recover it, a fit Opportunity presented it self, such as was utterly beyond their expectation. *Gildo*, the great Rebel, had a Brother called by the name of *Mazæfel*, or others, of like found unto it; as we have formerly seen out of *Ammianus Marcellinus*. This *Mazæfel*, out of a barbarous rage and fury, he would have killed, and laid in wait such as should intrap him; which having discovered, he fled into *Italy*, to the Emperor; whom he informed of the whole state of the Province: And shewing him how there could not be any difficulty in making War, offered himself to reduce or defeat his Brother if he might be furnished with a sufficient Army. There was some reason to consider whether the *Barbarian* ought to be trusted in such an Enterprize against his own Brother; but matters were brought to that pass in *Italy*, through the Revolt of *Africk*, that *Gildo* hindring all Navigation, the City of *Rome* was thereby cast into a very great Scarcity of Provisions: Whereupon the state of Affairs was reported to the Senate; which, upon the motion from the Emperor and *Stilicho*, decreed War against *Gildo*, and to be managed by *Mazæfel*. This when *Gildo* heard, he was more violently enraged; and flew to that height, that he laid hold on, and murdered two of his Brother's Sons, whom he had left behind him in *Africk*. *Honorius* continued his Abode at *Milan* the former part of the Year; yet, though at that distance, knowing how the City of *Rome* laboured under this Defection, he set himself wholly, in a manner, to provide for the Supply, and other Emoluments of it; wherein its Dignity, Peace and Tranquility were concerned. Left any of those Persons who belonged to such Companies as served the City with Necessaries, should withdraw themselves from their Functions, he declared, That all that were obnoxious to the Body of the *Senarii*, either in respect of their Birth and Original, or holding of Lands belonging to the Body, should continue their Services: And, for the encouragement of all in general, renewed the Privileges formerly granted to all the *Corporati*; one whereof, at this time of want, was very leasonable, viz. Excuse or Exemption from any extraordinary Indiction, or Imposition.

See himself to provide for Rome, which suffered much thereby.

The People run a madding after the fashion of the *Barbarians*.

55. But, to augment the mischief, there were some things practised in the City at this time which labor and understanding Men did much mislike, and thereof made Information to the Emperor. The *Goths*, and other Barbarous Nations having lived so long in the Empire, and many fixing in *Rome* it self, the People became enamoured of their Fashions and Apparel; thinking their own ancient Wear to be dull and unhandsome, and nothing so neat as what the Strangers used, how extravagant soever it was in it self: An humour prefiging very ill things, nothing being more ominous than that a People shall at length truckle to those they so admire, being captivated to them in their Fancies and Imaginations before they be Captives as to their Persons and Estates. However, this humour was so prevalent in the East, that, not only the ordinary sort of People, but the greatest Ministers loved to be seen in uncouth Garbs; of which *Claudian* makes *Rufinus* highly guilty, and in which he gave so ill example to *Arcadius*, his young Master, that *Synesius*, in his discourse him concerning Government, doth not omit to tax him, also, for this *Indecorum*. But *Honorius*, to put some stop to this ridiculous and mean spirit, now forbade the use of those things they called *Tzange*, *Tanche* or *Sanche* (being now made of Skins) and of *Bracce*, within the venerable City, as he terms it, under pain of Confiscation of Goods, and perpetual Banishment. Moreover, at this time, though there was scarcity of all Provisions, yet were they at *Rome* inflated with

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A Law against Slaves accusing their Masters.

Honorius makes a Law against it.

Sec. 1.

And eating up of Meadows

**As also super-
exaction of
Provisions.**

Gives leave
that new Wine
be given to
the Soldiers in
November.

Labours to
prevent a Con-
spiracy be-
twixt the
Althuarii and
Nemtroii.

Commands
the *Fabricenses*
to be branded
in the Arm,
to prevent
their running
from their
Employments.

farther upon so sensible of the Incroachments made by the Soldiers upon Grounds and Pastures with which they had nothing to do; that to restrain the liberty they took to themselves herein, he wrote, also, to *Simplicius, a Commander of the Militia* in the East; commanding him, That he should take care that none of them "should feed their Horses in the publick Meadows, and pleasant Pastures, which long Custom, and the Delicuousness of the Grounds, had hitherto fenced from such Violations; neither in the Fields which belonged to private Citizens of *Antioch*, upon pain of a Forfeiture of twelve pounds of Gold, to be payed by such Violators and the Officials of the *Magister Militum*, provided that the *Curiales* took care to furnish the Army with convenient Pasture-grounds."

69. In the time of War when Provisions were to be raised for the Army, great complaint was made against the *Abluvius* and the *Optimes*, whereof the former were the Clerks of the Troops that took the accounts, and the other received the Provisions from the *Suapeiros*. To prevent their frauds, *Arcadius* now gave order to the *Præfatus Prætorius*, that before the beginning of an Indiction Breives should be sent from the *Magistri Militum*, in which was to be expressed how much the Army stood in need of in general, and the several *Numeri* in particular. Then, when the Tax was laid, should other Breives thereof be dispatched to the *Serinus* of the Prince, that by comparing them together, any cheat of the Officers might be discovered, which was to be punished with payment of the double of what they superexacted from the Provincials. Amongst other orders of Provisions we see that Wine was wont to be furnished for the use of the Army, and the old was doubtless most desired by them. But the Corporation of *Epifane* a Town in *Syria*, not far distant from *Apamea*, petitioned the Emperor, for that the Sons in that country, which in the Month of November the Soldier might be served with Wine, were wont to be sold dearer in his District. By new Statute he decreed, that he should cause this Rule to be observed. By new Wine is usually meant that of the present year, or left Vintage by old, that of the year foregoing; but yet both old and new are to be understood of young, that of the nature of the Wine, and the Custom of the place. For Rome requires a longer time to ferment and ripe, as the *Falerum* was not fit to be drunk till the tenth, and the *Surrentinum* before the twenty fifth year. Others work speedily, and are quickly ready; as this seems to have been about *Epifane*.

70. But at *Constantinople* all were in an hurry and tumult, becaufe of the motions and attempts of *Tribigild*, and all perfons defired to flock thither, where each one could meet with thofe of his own party, and moft news was to be heard. The *Attuaries* or Clerks of the Army were obferved to loiter there efpecially, and it was difcovered that there was more than ordinary kindnefs and familiarity betwixt them and the *Numerarii* belonging to the *Prefect* of the City. The importance of this underftanding betwixt them was too confiderable; for the *Numerarii* dealing in Accounts, and making thofe Breives which concerned the ufe of the Army, and the work of the *Attuaries* being fuch, as we lately faid, they had opportunity by laying their Heads together to raife more than was needful for the fervice of the Soldiers, and put the advantage into their own Purfes. For this reafon it was, that now *Arcadius* being at *Nice*, gave in charge to *Severus* the *Prefect* of the City to “ fee, that no Communion or Society (which tended to the deftruction of all) fhould be betwixt thefe Men. And that the *Attuarii* within fifty days (a fufficient time to difpatch the bufinefs they came about) fhould depart this City, or if they were there found after the expiring of this term, they fhould incur forfeiture of five and twenty pounds of Gold. But fuch a refflefs humour, or a defire of lawlefs liberty, had now poffeffed the minds of all forts of Men, that the *Fabricenfes* alfo, or thofe that wrought in the publick Forges made bold to change the Air and their Employments, which caufed the Emperour, at the fuggeltion of *Hofius*, we may believe, the *Magifter Officiorum*, to whom the Confcription is directed, to give command, that as *Troops* or new raifed Soldiers were marked in the hand that they might be known, as alfo were the *Aquarii*, or fuch as belonged to the *Aqueducts*; fo fuch as ferved in the Forges fhould be branded in the Arm, not as a fign of crime or fervitude, but that they might alfo upon occafion “ be difcovered when they ran away from their work. And fuch as fhould “ harbour the Fugitives he will have condemned to the fervice; to be fure “ the children of the *Fabricenfes* themfelves, who were *Conditionales*, or fubject to the Condition, State and Service of their Fathers.” Thus *Arcadius* employed all the Civil Power he had for carrying on the War, while in the mean time he was galled by all about him, and each proved how he might make his Markets out of that publick calamity which impended.

71. Now

71. Now

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L. 3.^a de Paschis.
Cod. Th. lib. 7.
tit. 7. & l. 2.
Cod. Just. tod.
tit. Dat. 5. l. 1.
Mart.

L. 24. de Exor-
tatione Militaris
Annone. Cod. In.
C. 1. 9. Cod. Just.
cod. tit. Dat. 8.
Cal. Apr.

L. 25. § iud. tit.
Cod. Th. Das. 10.
Cal. Jun.
L. 10. Cod.
Jusl. cod. tit.
hinc interpola-
ta est, rescripto
& amputato ca-
pite historico ex
quo tamen ratio
& sic ut dicam
imago legis, &
anima cognos-
citur. Go-
thofred.

L: 15. de Numerariis, Cod. 7b.
Dat. q. Cal. Jul.
Ne duntius ad
cancellorum per
aciem, Alluarii
Numerariorum
Consortiis adju-
vuntur, &c.
l. 6. Cod. Jusf.
cod. tit.

L. 4. de Fabri-
censibus, Cod. Ib.
10. lit. 22. & l.
3. Cod. Just. cod.
lit. Dat. 18. Cal.
Jan.

CHAP. III.

Sect. 1.

Gildo defeat-
ed, and put
death, as *Or-
fus* hath writ-
ten.

71. Now, Spring drawing on apace, great expectation there was how *Mafcezio* behaved himself in *Africk*, and how matters would go betwixt the two Brothers; and they received an account of the dispatching of the War sooner by far than was expected. *Orosius* tells us, that *Mafcezio*, knowing, by the example of *Theodosius*, how powerful Prayer made in the Name of Christ, though in most desperate Affairs, is wont to be; went to the Island *Capraria*, at this time famous for the Monks that inhabited it; some of whom he prevailed with to go along with him: And continuing day and night with them in Exercises of Prayer, Fasting and Singing, obtained a Victory without War, and satisfaction for the injury offered him, without Slaughter. By a River called *Ardalio*, running betwixt the two Cities, *Thebaïse* and *Metriaca*, he pitched his Camp; wherein, it's said, he had not above five thousand Men. The Enemy was no less than seventy thousand strong: And there were some Straitsof a Valley which *Mafcezio* thought he needs must pass: Which, when he considered, our Writer tells us, that St. *Ambrose*, the Bishop of *Milan*, lately deceased, appeared to him in a dream; and making a sign with his hand, struck his staff to the ground three times, and said *Hic, Hic, Hic*: By which he prudently conjectured the Victory was foretold; by the word, the place to be signified; and by the day, the number.

72. Accordingly, he flayed that time; and on the third day, having spent the preceding night in prayer, and other Christian Duties, he led out his Men against the stragling and disorderly Enemy. To those he first met he spake kindly, and persuaded them by fair means: but one that carried an Ensign opposed him, and exhorted his Friends to begin the Battel. He perceiving this gave him a stroke on the Arm with his Sword; and the Wound so weakened the part, that the Man was forced to let fall his Colours. Those Troops that were behind, seeing this, took it no otherwise than as a token of Submission; and imagining that the best way for them had yielded, struck their Standards also, and came in to *Majesty*. Hereat the *Barbarians*, of whom *Gildo* had brought a great multitude into the Field, being discouraged, and having none to lead them, fled several ways. *Gildo* got to the Sea, took Ship, and fet Sail; but was recalled into *Africk*, and there perished by stragling, after a few days. We should, *Orelus* adds, be in danger of being thought to lye impudently, if we should make relation of so great miracles, if there were not Witnesses sufficient, who beheld them with their own eyes. There was no Treachery or Ambush; but yet, seventy thousand Men were overcome, in a manner, without fighting: He that was overcome fled for some time, that he who had the better, might not find whereon to vent his present Anger. He is transported into another place, that he might not know his Brother was slain; by whose death he received satisfaction. *Maxeziel* himself, being puffed up with his success, and forsaking now the company of Holy Men; with whom formerly afflicted in his Fight, he had overcome; adventured, even, to violate, and put out of the Church some that there had taken Sanctuary. But Punishment overtook the Sacrilegious Person: for he alone, after some time, was punished, they being still alive, looking on and insulting, whom he had drawn out to Execution; and in himself alone he experienced, that Divine Justice watcheth still on both sides: He being afflicted when there he had his trust; and at length slain, when he came to despise what before he had trusted.

73. The end of *Gildo* was brought about just after, or much according to this manner: so soon, and with so little ado, as filled all Men with admiration, as we may perceive by *Claudian*, in his Poem concerning this War; who falls into a kind of extatic in his thoughts concerning it. Had the second Book of this Poem been preferred, we had had much more light concerning the management of the Affairs: for, though his expressions be Poetical, and many Fictions he hath, and figurative speeches; yet not so as, ordinarily, to intrench upon the very substance of the Actions which he introduceth whole, though clothed in his witty drefes. From him we learn, that this War began in Autumn, or toward the beginning of Winter; and in Spring, was finished. How, in all this time, *Rome* was miserably oppressed for want of Provisions; which, by his Poetick power, transforming into a Woman, as usual with Men of his Art, and their Brethren, the Painters He carries her up to *Supiter*, and there makes her tell a very sad tale of her Calamities. And to History is very agreeable her very Call, as the states it, that she had, since the time of *Cellar*, been, for her merits, rewarded with both *Egypt* and *Libia*; that, by her Summer Fleets, both her Warlike Senate, and her Ruling People might be nourished; a Course wherein she could not but be securely provided for, the one constantly supplying the accidental defects of the other. For af-

Señ. i. oppression (he being a most tyrannical and wicked man, as *Claudian* sets him out) and that Country returned into obedience to the Empire, together with the Dominion of *Gildo*, which was so large, that it alone became the charge of a *Comes*, who in the *Notitia* of the Empire is called *Comes Gildomact Patrimonii*. His Person fell not into the hands of his Prosecutors, though his Estate did. For *Zosimus* writes, that left he should come alive into their power, he hanged himself.

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Thronus after
his Defeat
publisheth a
Law against
false Accusers.

78. Now, as it always happened after the suppression of a Tyrant, followed a prosecution of his Friends and Abettors; and this continued a long time, he having, by keeping the power so many years, established an interest very considerable. And to be sure, upon such occasions there wanted not those, who would accuse, right or wrong, hoping to ingratiate themselves, by laying the charge of Treason to those persons after whose Estates they gaped; and a sence of this oppression after such Conquests, drew out several Laws from Princes for suppression of this sort of Cattel. *Honorius* was now very early put in mind to do the like. For we find an Edict directed toward the beginning of *March* to *Victurus*, the *Proconsul* of *Africa*, wherein he declares, that he will not suffer innocent persons to be ruined by the Accusations of crafty Men, under a shew of false Criminization: and if such should attempt any such matter, they must know that they shall feel the severity of the Laws for such offences, whereby being made infamous, they were also to be driven into banishment. This haste was made to obviate the practices of Informers; for it must have been presently after the Defeat of *Gildo*, being so early in the year. As hereby *Honorius* could not but please all honest Men, both in *Africa*, and other places; so we know not how grateful he was to the *Spaniards*, in reference to a thing he now did, relating unto their Country. That payment called *Glabalis Collatio*, and belonging to *Senators*, though usually payed, had been remitted, it seems, to some in *Spain*, and probably by *Theodosius* their Countryman, out of kindness to their Nation, and respect to the circumstances of certain persons, who by reason of Poverty, or some Employment, as *Pagan* Priesthood in the Cities, might pretend to excuse or favour. One of this number was *Eventius*, a Senator, but poor, being the Priest of the Province, and possibly under other qualifications; and now the *Glabalis Collatio* was demanded for such Lands as he stood possessed of. He denied payment, alleging and pleading privilege from the Immunities granted to the Priests of *Spain* in general, and the particular qualifications of his own person: upon his Refusal the Officers betook themselves to *Felix* the *Præfectus* *Pretorio* of *Gall*, to whose Government, *Spain*, as a Diocese, was at this time subject, and he approving of *Eventius* his excuse, declared him free from the Tax. But the matter rested not here, but was reported to the Emperour; who taking it into consideration, by a Rescript directed to *Felix*, declared first that this Imposition was a Burthen of the Soil, and not any personal charge, and therefore upon necessity they must be liable to it that received the Revenue of the Lands. This considered, he ordains that *Spain*, and consequently *Eventius*, should only enjoy that privilege of Exemption for the present time; but for the future, in payment of dues, be bound to the customs of other Provinces.

79. The Sea being now open, and all Impediments removed for bringing Provisions to *Rome*, *Honorius* published a Constitution for the good Improvement of this Advantage, Corn and consequently Bread being now cheaper, he commanded that one Loafe of that called *Panis Officinis* (from *Offitia*, the Port where the Corn was landed, and Store-houses were made to receive it) and *Panis Fideialis* (from the Fiscal Canon or Store, out of which it was made) should be sold but for one *Nummus* or a brass *Denarius*; a thing of so small value, that five thousand of them made but one *Solidus*. But the Bread was but Courte, though not of the very coarsest sort; however the Emperour commands that none dare to obtain a Rescript for the increasing the Price, imposing a Fine of two pounds of Gold upon him that shall attempt it by petition. In like manner he charges *Theodosius* the *Præfect*, to whom this Constitution is directed, That a Multitude of five pounds of Gold be inflicted upon such Knaves as should impudently desire, that Water should be granted them for their Gardens, or other private uses, out of that whereby the Mills were driven at *Rome*, and Provision made for the maintenance of the People; as also the same Fine to be imposed upon the *Præfectus* *Annone* and his Officials, if they should suffer it to be done. And in the last place, he wills, that in the same manner such be punished as shall usurp the Right and Life of any Granaries or Cellars within *Rome*, or at the *Port*, belonging to the Company of Bakers, in order to publick service. For all these things

*L. ult. de Calen-
nariis Cod.
Tol. 9. tit. 29.
D. 4. id. Mat.
id.*

*Vide Symmach.
L. 4. tit. 29.
L. 1. de Sena-
torib. Cod. Th.
D. 4. id. Mat.
id.*

*L. ult. de vitiis
panis Officinis
Cod. Th. tit. 15.
D. 4. id. Mat.
id.*

*Imprudens pe-
nitentia, qui im-
pudenter impo-
nitur panis Officinis
Cod. Th. tit. 15.
D. 4. id. Mat.
id.*

Señ. i. were in their hands and management for the making of Bread, as well the Mills as whereas it was usual for Judges, in way of punishment, to condemn Criminal Persecutors (or others) out of a sort of pity, made it their business to procure Rescripts for fetching them thence, to the hindrance of so necessary a Service. Of this he takes notice also to *Theodosius*; And, upon his head that should go about to obtain such Warrants; as also, such Judge and his Officers as should approve of it, he sets the like Fine of five pounds of Gold.

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*L. 20. de Piss-
tibus, C. Cod.
Th. D. 2. tit. 29.
id.*

80. But with the Judges or Governors of Provinces he found great fault at the Close of the Year; their Ambition being so great, that no Laws could put a stop unto it. We have heard how often they had been prohibited from making new Works, and raising new Structures, whereon to transmit their Names to Posterity: yet they could not forbear, but some of them busied themselves so far therein at this time, that it drew forth from him another Edict, wherein he commands *Theodosius*, that, Without leave obtained from the Prince, none dare to do it; as for the Ornaments of Cities consisting in Iron, Marble, and other Materials, that they remove them not from one place to another without the consent of him their *Præfect*, under the penalty of three pounds of Gold; which Fine he also imposed upon any Corporation that shall not defend themselves, but suffer their Town to be deprived of its Ornaments. But as for the publick Granaries or Stables, or Harbours for Cattel, if the Judges of Provinces will attend the building of them, he commends their industry therein. But those were Works of such Persons as built noble and large Structures: and not only so, but had Statues of some Cities, to flatter them; for such intelligence *Honorius* received: and in this same Constitution commands *Theodosius*, That such Judge as had received them without the Emperour's Approbation, be detected. For his punishment, he will have him forfeit fourfold of what he had got in that Dignity he had polluted, together with his extorted and presumed Titles; and whithin, incur an Infamy, or loss of Reputation. In conclusion, he declares that they shall not fail of losing their Fame also, who, out of flattery or fear, had done that which was unlawful.

He curbs the
pride of the
Governors of
Provinces.

*Fl. Mallius The-
odosius* Conful
alone.

Claudian the
Poet, his most
eloquent and
learned Panegy-
rick upon that
Subject.

81. The *Fasti* and Monuments of the following Year, or the CCCCXCIX. of our Lord, present us with the name of but one *Consul*. This was *Fl. Mallius Theodosius*, a Person very eminent in those days, as well for his great Learning, Eloquence and Excellency of his manners, as the greatness of his Quality and Favour him as a Christian, had not *Claudian* the Poet written a most elegant and learned Panegyrick upon the occasion of this Consulship; wherein he extraordinarily extols him for several things, and his Virtue in general. And with Virtue he begins, which he sets forth with her excellent qualities. That she is a price unto herself, without any external Reward; being alone altogether secure, and unconcerned to be rendered famous by Applause of the Vulgar; being desirous of no external assistance, nor standing in any need of Praise; as abundantly satisfied with her own Riches, and being not to be moved by any Accidents; looking at a distant sight after and courted by Honour, though unwilling; as appeared in the Consul on the search of the Mysteries of Nature and of the World, now Emerite, and re-Addition of the Consular Ornaments. To make this out in elegant words, he tells him how his first and ruder Years did indeed mold and fashion him to such a posture as fitted him for the Curule life; and that the old Men, out of the admiration of his Prudence and Eloquence, though they be wont to despise Youth, gave place unto him. Now did he betake himself to the *Forum*, and there defended accused persons (the custom of the young Noble Men of *Rome*, to fit themselves for great Employments) where the Bench was amazed at his Language. After this, part of *Zephyrus* approved of his Administration of Justice; so that, it seems, he was made *Proconsul*, or Vicar of *Africa*; then was *Macedonia* and the Walls of *Pella* committed to his charge; which thereupon conceived as great joy, as when *Philip* their King fought his prosperous Battels, or when they heard the News of the Fall of *Pompey*.

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*Fl. Mallius
Theodosius,
Consul.*

*De Consule
Fl. Mallii The-
odosii.*

*Pia pulchra
virtus præcipue
fuit, siquæ la-
tis.
Fortuna secuta
necesse est
falsum vultu
exigere.*

The Sea being
now open, *Hon-
orius* im-
proves that
opportunity
for supply of
Corn.

See forth his
Employments.

Sect. I.

by which we may understand, that he was made *Præfatus Prætorio of Illyricum*. Now would not the Court any longer permit that the Cities should have him all to themselves; but refused to make him her own, that he might give forth Edicts to Nations, and to Petitioners, Answers. He tells him, the Oracles of the Emperor increased by his Eloquence; neither did ever *Roman Majesty* speak more gracefully, than by his mouth.

82. Hereby must be meant, that he was *Questor*; whose work it was to compose Edicts and Answers, and to be the mouth of the Emperor to the people. But from this Employment, he was raised to be *Comes Sacrarum Largitionum*, as appears from what he sings concerning Sacred Riches, Tributes and Gold, both of Mines and Rivers, being committed to his charge. And now, as a Mariner who had been used to the Oar, when having obtained sufficient skill, is removed to be Pilot to command the whole Vessel, and give directions to all that are in it: So was he removed, to govern both the *Spanish* and *German* Ocean; and *Brittain* also, separated from the rest of the World; being obeyed by flow *Arar*, fierce *Rhodanus*, and rich *Iberus*: So that he obtained the Dignity of *Præfatus Prætorio of Gall*. Having run through all these Honours and Employments in one Age, in a swift course, and while as yet but a young Man; being arrived at the pitch of Glory, he now desired ease and the shade: where he gave himself wholly to the study of all the parts of Philosophy; which the Poet runs through in a learned, though Poetical style. He tells him, that with *Roman* flowers he irradiated the obscure Acts of the *Greeks*; and the having translated, as he hints, the Dialogues of the School of *Socrates*, and the Works of other great Philosophers. Now he thought himself fully at ease; having taken up his Station, and cast Anchor, and fully pleased himself therein; and Books followed Books, which would live for Ages after his Decese: When Justice out of Heaven beheld him loitering, and her Laws greatly wanting such a Judge; which sight not enduring, the forsook her place amongst the Stars, and came down to *Ligeris*; where entering his House, the found him drawing the lines of a Celestial Sphere in dust, as the Ancients were wont to practice their Mathematics. With many good words and commendations the set upon him to persuade him, that the Glory of his time already passed, might not suffice; forasmuch as no time ought to prescribe how much, or how long, Mankind was to be taken care of; and Prudence is not contained in any bounds. She demands, if he think it more worth his while to dwell upon abstruse Notions? Whether the Precepts of his *Plato* more profited *Athena*? or the Actions of him who destroyed the Eastern Fleets, carried the City in Boats, and delivered it from being burnt by the *Mede*? meaning *Themistocles*. She showed how much *Lycurgus* profited *Sparta* by his severe Ordinances; whereas the Doctrines of *Pythagoras*, and his Years of Silence, could give no relief to *Tarentum*.

His returning again to the Management of State affairs.

His Justice and Learning.

83. Telling him, that now Clemency and Piety, Peace and Fidelity, were with her self resolved to come and live in the Cities, she desires him to return with them; which he, not able to deny (as to Justice it was not just) though sufficiently sensible of the Ruin which through dilute he had contracted, the delivers into his hands four Reins of Government. Of these, one belonged to *Pædus* and *Tyber* of *Italy*, glittering with her thick set Towns; the other curbed the *Lithians* and *Carthaginians*; the third extended to the *Illyric* World; and the last restrained *Sardinia*, *Cirron* (or *Corfica*) and three square *Sicania* (or *Sicily*) with the Coasts of the *Tyrrhenian* and *Ionian* Seas. This shews that he was *Præfatus Prætorio of Italy*, to which *Africa* and the Islands were joyned; and of the Western *Illyricum*. After this, the Poet falls into a great Commendation of him, for the goodness and justice of his Government; wherein he paints out the perfect Portraiture of a just Judge in all his Lineaments, and admires him for his Eloquence, and his Books written concerning *The Original of the World*, and the *Parts or Faculties of the Soul*; which, to our great loss, have miscarried; and wherein, he saith, he expressed his own manners and disposition. After all this, he subjoyns, that the Emperor deferred not that Reward which was due to his Merits, and wherewith learned and good Men were wont to be adorned; but gave him that Habit which joyned the Court of Justice and the Palace, the Prince and his Nobles together, and made him his Successor in the Consulship; which he had now born the fourth time. At this Solemnity (as there was wont to be exhibited a Shew of the *Circenian* Games) *Marcus*, by whose Instructions he had made his Spheres, summoned in all the other Muses to give their Assistance, in procuring what was wont to be seen in these *Spæculars*, after that, first, *Hælicon*, and the other Rivers, had signified their joy; he, by pouring out a larger Stream, and they, by sending forth plenty of Flowers. It's convenient

— Hippias
as the Gima-
nagat Tithy.
Venus, & Juno
did the Britan-
nia munda.
Dionysus was
collected with
Lestus Arar,
Rhodanusque
Iberus, & divus
Iberus, a. v. 50.

Sect. I.

In the Shews
he exhibited
were no Gladi-
ators.

to take notice that he mentions in those Shows, the running of Horses, Wretings, Stage-plays, Combatings with wild Beasts, Mimicks, and all sorts of Musick and Voices; amongst which, Organs moved by Water, Dancing upon Ropes, flying in the Air, and other Feats of Activity, Sights of Fire, and of Boats swimming on the Theatre. *Barthius*, one of those Learned Men, who, by their Notes and Commentaries have explained this Poet, observes, that amongst these, he makes no mention of the *Gladiators*, because *Constantine*, he saith, had formerly taken them away. But he was mistaken, *Constantine* indeed prohibited them in the East; but at *Rome* they were still in fashion, and not prohibited fully, till five years after by *Honorius*. Indeed all good Men were troubled they should be continued: and the Christian Bishops made often great complaints of it; and this *Theodorus* being a conscientious Christian, the reason is rather thence to be fetched, why at his Shows they were not exhibited. His Virtues and Learning were so great as to move *Claudian*, though a Pagan, to write such a Panegyrick, as in the opinion of the said *Barthius*, is a most Learned, most Eloquent, and *santium non*, a Divine Book; pointing to a great part of the Myteries of humane Wisdom, which, if one would interpret, as it deserves, it were necessary to search into all the Archives and Treasures both of *Greece* and *Latium*. Indeed, it deserves the perusal of all that are concerned in such matters; and some respect to it, as well as to the Man, hath made us more tedious, than we intend to be hereafter upon any such Concerns.

Eutropius de-
signed Consul
with him in
the East.

84. But the Poet in his Exultation upon the promotion of *Theodorus*, applauds the Fate of Virtue, Wit, Industry and Desert, that answerable Returns were made unto them; that the *Curule* Chair was not violated; that no sly Names polluted the *Faust*; that this Honour was granted to valiant Men, being such as belonged to the Fathers alone, and would never bring any shame to *Rome*; whereby he seems to tax what was done this year by *Arcadius* in the East, and those about him. For he that was designed there Consul for this year was verily no other than *Eutropius* the Eunuch, who was far from pleading merit; was neither valiant, nor could be a Father, and therefore by him the *Curule* Chair was violated, the Registers polluted, and shame redounded, if not to *Rome*, to *Constantinople*; as the same Poet with elegance sufficient, sets it forth in other Poems, he wrote against this vile Man. He obtained the Honour of *Consul*, and further than that, of *Patriarch*, or the Father of the Prince, which was no wonder, considering the power he was arrived at; it had been a greater wonder, had he continued in so extravagant a power. As his Ambition raised him, so it pulled him down, and gave him not much time to enjoy his Consulship, but brought on speedily his Destruction; of which, because *Gaines* was the Procurer, we shall begin with the matters of that Traitor, where we left them, and shew out of *Zosimus* how one Vermin, as frequently it happens, devoureth another.

Gaines there-
at enraged, re-
solves to com-
puls his Death,
and sends to
Arcadius to
let him know
that Tribigild
could not be
mattered, if he
was not given
up into his
hands.

85. *Gaines* wonderfully cried up the Achievements of *Tribigild* to the Emperor, and affrighted forcibly the Senate and all the Courtiers, affirming he would march to the *Hellepont*, and put in danger the present posture of Affairs, if the Prince would not have a respect to his Proposals. This he did cunningly, that *Arcadius* might not discover his intentions, and that by such things as should be granted to *Tribigild*, he might have greater advantage to put them in execution. For it did not so much grieve him, that he himself was, as he thought, despised; as it enraged him to see *Eutropius* now preferred to the highest pitch of Dignity and Power, having obtained to be *Consul*, and to be honoured with the Title of *Patriarch*. These were the true motives to *Gaines* to attempt an alteration, and being now prepared for it, he resolved in the first place to compass the death of *Eutropius*. While he yet lay in *Phrygia*, he sent to the Emperor, to let him know, that by reason of the great Conduct and Experience of *Tribigild*, he was utterly at a loss; that there was no withstanding of him; but that *Asia* must necessarily be lost, except he would condescend to what he desired, whereof this was the main, that *Eutropius*, as the grand Author of all mischief, might be given up into his hands, to do with him as he should think convenient. Hereupon *Arcadius* sent for *Eutropius*, and abrogated his Power and Dignity, whereupon he speedily betook himself to a Church of the Christians, which from him had received the privilege of an *Asylum*. But *Gaines* being very urgent, and saying, that *Tribigild* would not remit any thing of his Indignation, except *Eutropius* was made away, contrary to the Law which gives to Churches the Right of Sanctuaries, they took him thence by force, and banished him out to *Cyprus*, where he was kept by a strict Guard. But still *Gaines* being importunate and urging the Emperor to put him to death, at length, they that were near about him, eluding by a quirk that Oath they had

Griffiths viri-
tus facundia
horas dies
ingeniis patuli
campus circui
qui mensi
Non hic vultus
Carulis,
Turpia tan E-
tus lacrimis
nomina fessis,
Fortibus hoc
ingeniis viris,
Siliqua gerenda
patrius, &
Rene nunguis
Lauris potest
v. 351. ad
v. 270.

Exemplum
videtur h. c.
ordino,
dignitas male
legis, que ab
illatempore
Aspi confectus
trinit.

Señ. 1.
He is put to
death, and
how, accord-
ing to *Zephaniah*.

given him, when they took him out of the Church, sent for him back from *Cyprus*; and as if they had only sworn, that they would not kill him while he remained at *Constantinople*, removed him to *Chalcidion*, and there caused him to be slain. Thus was *Eutropius*, after an unwonted manner, treated by fortune in both sorts. For the promoted him to an higher pitch than ever any Eunuch had attain'd; and then brought about his Destruction, for the hatred which those that were Enemies to the Commonwealth said they bore unto him. Thus *Zephaniah*.

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How far his
Religion is
true.

86. The substance of this Story is true, but according to his manner, he fails in considerable Circumstances. After his being deposed from his Dignities, he did indeed betake himself to a Church, as to a Sanctuary; but the Church had no such Right or Privilege of an *Asylum* from him, who was so far from procuring this privilege to Churches, that the year before, he procured *Arcadius* to make a Law against it. The Church to which he fled, was that of *John Chrysostom*, now Bishop of that See, who protected the miserable Man as he lay embracing the Altar; and would not suffer him to be taken thence, till he had obtain'd an Oath from the Emperour, that he should not be given up into the hands of *Gaius* to be put to death. Both Emperour, Soldiers and People sufficiently now convinced of his extravagant courses, were glad to be rid of him; but when *Arcadius* heard he had taken Sanctuary in the Church, he restrained himself and the Soldiers too, from meddling with him. But the People, to which the Church was open, being more heady and unruly, and moved with an hatred to his person, was not so to be governed, but their golden-mouthed Bishop was forced to mount the Pulpit, and charm them with his powerful Rhetorick. Some have charged him with impudence and unmanlyness in insulting over a Man in misery; but the Oration he made is still extant, and so may speak for him and it self.

L. 2. de his qui
ad Ecclesias
confugiunt, c. 2.
Zeph. g. 2. 2.

John Chrysostom
from the Bi-
shop his Oration.

87. It begins indeed with an high upbraiding of him for his former course of Life. If ever before, now may we say, *Vanity of vanities, all is vanity*. What's now become of the great pomp and splendour of the Consulship? Where are now the illustrious *Festivals* where are the Applauses, Banquetings and Merriments? The noise of the City? Those high Acclamations and Flatteries of the Spectators of the *Circenian Games*? Those Garlands and Musick? All these are past and gone. A violent Tempest hath blown down the leaves, spoiled the Tree, so as it dangerously totters; and so great a storm continues still upon it, that having weakened forely its roots, it threatens to lay it along on the ground. Going on in this manner, he thence demonstrates to his Auditors, that they should all, in all places, upon all occasions, and at all times sing this Song unto another, *Vanity of vanities*: that they should write it on their Walls, in their Cloaths, in the *Forum*, in their Houses, in the Ways, in their Windows and Doors, and especially in their Consciences. He then demands of *Eutropius*, whether he did not tell him, that Power and Wealth were uncertain things: but he would not hear nor believe him; as neither when he told him, that he was a better Friend to him than all his Flatterers; that the wounds of a Friend were rather to be endured than the kisses of an Enemy: this he would not endure then to hear, but feverently checked him for his faithful admonition. Formerly he ranted against Churches, and was all for the Theatres. Now the Theatres upon which he had spent his Treasure, were earnest to cut his Throat: and the Church and Church-men, whom he despised, were become his Safeguard and Protection. He adds, that this he did, not to insult over a prostrate and miserable man, but for the Instruction and security of others; not to make his wound bleed afresh, but to keep others invulnerable and in good health, by putting them in mind of the mutability of humane Affairs; which cannot be compared with any thing that can sufficiently express their inconstancy; nor Smoke, nor Hay, nor Dreams, nor the fine flourishing Flowers of the Spring. This sufficiently appears, faith he, in this Man; for who than him, was more eminently dignified? Did not all Men fear and reverence him? but now he is become more wretched than those in the Goal, more miserable than Slaves, and more necessitous than Beggars that starve for hunger; having ever before his eyes, Swords ready brandished against him, seeing nothing but Precipices and Executioners; and intently on the way that leads to deserved punishment, having no Friend that will own him in his extreme distress. What need words when your eyes convince you: for the Emperour having sent his Officers to bring him by force out of Sanctuary, what thing can be more pale than he? a dead Man hath as much colour in his Cheeks, his Teeth chatter in his Head; a trembling hath invaded his whole Body; his voice is interrupted with sobbing, and he flammers in his speech. In sum, he is in such a plight and condition, as when the Soul is altogether overcome with fear.

28. This

Señ. 1.

88. This I say again, I speak, not to upbraid him in his misfortune, or to insult upon him in his misery; but that I may soften your minds into Compassion, to stir you up to Commiseration, and to persuade you to be satisfied with his present Punishment: Because, amongst our people, there are many so inhumane, as to traduce us for receiving him; desiring to soften the hardness of their hearts, that I make such a representation of his miseries. And, I beseech you, what is that that so sticks with you, that cannot be passed over? You will say, that he is now fled to a Church, who, without intermission, was an Enemy to Churches. The more God is to be praised, who hath suffered him to be reduced to such necessity, that he might perceive both the Power and the Clemency of the Church: its Power, in that such an alteration is brought about in that Enmity that he exercised against it; and its Clemency, in that it covers and protects its Enemy, as with a Shield stretched over him; defends him with its Wings, and forgetting former injuries, opens its bosom to receive him. This is more glorious than any Trophy, more famous than Victory, this shames both *Pagans* and *Jews*. To oppose it self against the anger of the Emperour, and the intolerable rage, fury and hatred of the People, is the Ornament of the Altar. You will say, an Ornament indeed to the Altar, to be embraced by a notoriously wicked, covetous and rapacious Man. But, take heed what you say; for an Harlot touched the feet of Christ, an incestuous and impure Woman; and yet this was no fault of his, but redounded to His great praise, and the admiration of him: His Purity was not concerned for her Impurity; but He purified her thereby. Neither must you talk of injuries; we are the Servants of Him that was crucified for us: who said, *Forgive them, for they know not what they do*. Indeed, as you may object, by written Laws he took away Refuge and Sanctuary from this place: But now he hath learnt by experience, what it was he did. And by his own deed, hath first abrogated his Law, being become the Spectacle of the whole World: and though he be silent, yet he sufficiently instructs all others; and bids them beware by his Example. In this respect the Altar is become more illustrious, and obtains greater Veneration, in that it holds a chained Lyon: As the Emperour seems not so glorious when he sits upon his Throne, clad in Purple, and adorned with his Diadem; as when *Barbarians* lie at his feet, and with their hands bound behind them.

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89. That I came not prepared to speak these things, you, by your haste and concurrence, sufficiently witness. This indeed, you esteem a brave fight, and you account it a merry meeting; neither do I perceive the Assembly to be less than it was in the late Feast of *Easter*. You are so excited by the silence of this Man; which, at present, is more thrill than any Trumpet. Virgins have left their Closets; Women their Work-houses; and there are no Men to be found in the *Forum*. You all come to behold, represented, the defects of Humane Nature, the momentary mutability of Worldly Affairs discovered, and the Lusture of States-men transformed; which yesterday, and the day before, were very glorious. Such Prosperity as ariseth from the Ruin and Oppression of other Men, is now demonstrated to be more deformed, than the Wrinkles of an old Woman; an alteration of Affairs, like some Sponge, wiping away that Paint wherewith it was covered. Let such as are rich come to this Show, and from it they shall receive great profit; seeing him, who lately made all the World shake with one nod, fallen from so high a pitch of greatness; shrunk so much with fear; more fearful now than any Frog or Hare; sticking to a Pillar without binding; and, instead of a Chain, tyed by apprehension of danger, grieving and trembling; they will put down their loftiness; and considering what ought to be considered in Humane Life, depart instructed in this point, according to what the Scriptures teach us; that *All flesh is Grass*, and *all the Glory of Man as the Flower of Hay*. The Hay is withered, and the Flower hath faded. On the other side, if a poor Man come to be a Spectator, he will not be displeased with himself, nor deplore his own condition; but thank his Poverty, which is to him in stead of a Sanctuary, of a most calm and quiet Haven, and as a most fortified Castle: and all laid together, if he might have his wish, he will chuse rather to be content with his present condition, than, having, for a while, enjoyed the Estates of all other Men, presently fall into danger of his own life.

90. Have I, then mollified your minds? Have I appeased your anger, and extinguished your Inhumanity? Have I wrought in you any Commiseration? I believe I have; as I gather from your Countenances and Tears. Seeing, then, the Soul of your hearts is turned into fat and fertile ground, proceed to bring forth fruit.

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Fruit of Mercy, and the Blades of Commiseration: and let us fall down on our knees to the Emperor; or rather, deprecate our most Cracious God, that he may lessen his Rage; and vouchsafe to give him a tender heart, that we may fall prey with him. And, since the day that this Man fled hither, there is no little alteration: For, after the Emperor knew that he had taken Sanctuary, the Soldiers flocking together, and in a rage against his Crimes, demanding him to be given up to Punishment, he made a long Speech to them, to mitigate their displeasure; telling them, that they should not altogether look at his Faults, but reward him for them; and if any thing hath happened through frailty, pardon that also. But they still urged, and were unquiet; crying out, that he ought to be punished for the injury he had done to his Majesty; some sentencing him to Banishment, and others condemning him to death, with flaking of their Spears (as usually in a Tumult) at which he brake into tears: and striking them with a fence and reverence of the most holy Table, at length, with much ado, he appeased them. And let us, I pray now, contribute what we may toward so good a Work. For how can any of you be executed, if the Emperor, on his part, pardoning to great Offences, you, having no such Provocation, still persist in your Rage. How can any of you, after this Affirmity is dissolved, either handle the Sacraments, or pray this Prayer, *Forgive us our trespasses, as we forgive them that trespass against us.* Perhaps he hath done you great mischief or injury, and we shall not deny it: But this is not a time to judge, but to have mercy; not to require satisfaction, but to have pity and compassion; not to examine, but to forgive; not to vote or censure, but to absolve. Let none of you then be angry and incensed against this Man; but rather implore the Mercy of our merciful God, that his life may be saved, and that he may be delivered from this imminent danger, for the correction of his manners. And let us joyfully become Petitioners to the Emperor, in behalf of the Church and the Altar, to desire, that one Man may be freely granted to it: which, if we do obtain, we shall both do that which is acceptable to him; and God himself will approve of what we do, and reward us for it. To whom he makes, like a good Christian, a solemn Address upon this Account, and so concludes.

His Eloquence failed not of Effect.

Europius had affronted the Emperors, according to Philostorgius.

21. To this purpose spake the Bishop; and his Eloquence failed not of its Success, being duly regulated by the methods of Prudence. Had he gone about to excuse him, he had the more enraged the multitude: but owning his fault, and laying open the sadness of his condition, by discoursing Christianly and politely concerning the inconstancy of all worldly Affairs, he accomplished what he designed. For, the Emperor, the Soldiers, and all the People remitted much of their former Indignation; and they were contented that he should live, and feel the effects of the Sanctuary. But, whereas the Bishop, in all his discourse makes no mention of *Gaines*; but only of an Affront or Injury *Europius* put upon the Emperor, as a cause of his Calamity: We must tell another story from *Philostorgius*, and *Nicephorus* lib. 11. ch. it was from him; which being known in the City, and in every Man's mouth, it was more prudent in him to touch at it, than to discover the weakness of the State, by laying before the people the power of *Gaines*. The Eunuch, grown to such a height as to make him uneasy to all persons, was now so belov'd with pride and folly, as to offer several Affronts to the Emperors, imagining (possibly) he might be more bold, because he had been preferred to that Dignity by his procurement. Amongst other extravagancies, he threatened, that in a little time he would cause her to be taken out of the Palace, and sent home. She, exceedingly enraged hereat, took up her two little Daughters (*Pulcheria* and *Arcadia*) in her Arms, and went to her Husband, crying, and bewailing her condition; and bidding him to look upon their Children, the fell into a great passion of weeping, and otherwise behaved her self as a Woman would do to move compassion. *Arcadius* was extremely moved, and so far concerned for her and his Daughters, that he shewed himself an Emperor indeed; for he deprived *Europius* of his Wealth and Dignities, and banished him into the Island of *Cyprus*. Not long after, being accused, that when he entered the Consulship, he had made use of some Beasts or Horfes, as *Philostorgius*, which the Emperor alone might use, though *Nicephorus* turns it into Ornaments; he was fetched thence, and brought to *Pantechium*; where he was heard and tryed before *Aurelianus* the Prefect, and other Illustrious Persons: by whom being found guilty of heinous Crimes, he was put to death.

22. Whatever the particular was wherein he had injured or vexed the Emperor, an Act of State, or an Edict, passed for his Deposing, Banishment and Forfeiture of

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An Edict for his Deposing and Banishment.

of his Goods; still to be seen in *Theodosius* his Code. Herein *Arcadius* signifies to *Aurelianus*; that he had confiscated all the Estate of *Europius*, who of late was the *Propositus Sacri Cubiculi*; the Consulship and the Splendor thereof being vindicated from nasty filth, from the Commemoration of his Name, and the dirtiness of it; so that all his Acts being reformed, all times to come may be silent concerning him; and that, faith he, the blot and blemish of our present Age may not appear. Neither let him mourn, who by his Valour or his Wounds, propagates the Roman Borders, or defends them by the Equity of Law, that the Divine Reward of the Consulship hath been defiled by the Contagion of a dirty Prodigy. Let *Europius* know, also, that he is spoiled of the Dignity of *Patritian*, and all other inferior Honours, which he hath polluted with the Wickedness of his Manners. We command that all Statues, Images; as well of Brasses, as Marble; as well painted, as wrought out of any substantial matter; be utterly defaced, abolished and removed out of all Cities, both private and common; left the eyes of any be polluted by such a Mark of this our Age. And let him, with a sufficient Guard, be carried into the Island of *Cyprus*: to which your Highness may take notice he is banished; that being there carefully watched and kept close, he may not, by his madness, confound all things. Such is the Edict, according to the Style of this Age, which sets *Europius* out as a filthy Monster. To it *Claudian* seems to have respect in his Preface to his Second Book against this Eunuch; when he faith, that his Madness fell by the Wound of a little Paper; that the cruel Work of *Mars* was dispatched by one Letter. And as it's little to be doubted but that he saw and perused the Edict: So his Poems against *Europius* are but an elegant Comment upon a harsh and rugged Text; so lively are his Representations of his Wickedness, and the disgrace that redounded to the Empire, and the Consulship, by his being preferred to so high a Dignity. All along he makes it no other than a Prodigy, or some Portentous thing, to have an Eunuch (an old Woman he terms him) to be seen in the *Trabes*, or Confular Ornaments; and insists upon the polluting of the *Fasti* by his Name. In sum, he urges his Administration and Pre-ferment as the Violation of all Order, Finesse and Decorum.

23. *Europius* was now gone, but not all the effects of his Male-Administration. Those of his Creatures were grown to a strange height; and expecting Protection from him, they were very easy to grant it to their Inferiors, when their own interest and advantage provoked them to it. Several Laws had been formerly made against the receiving of Husband-men, and such like, into the Patronage of the Great ones; for the many Inconveniences that happened thereby, and defrauding, especially, of the Treasury. But, so fawcy were they, as still to proceed; which constrained *Arcadius*, within less than four Months, to publish two severe Laws against this practice, which was most common in *Egypt*, of all other Countries. By the first of these he imposed a Fine of forty pounds of Gold upon any that should continue thus to protect a Country-man, or his Ground, be he of what Quality or Condition soever; whether a *Magister Militum*, a *Comes* (of the East, of *Egypt*, or of *Isauria*) a *Proconsul* (as of *Asia*) a *Vicar* (of *Asia*, *Pontica*, or *Thrace*) *Augustalis* (Prefectus of *Egypt*) a *Tribune* or a *Curialis*, or by instancing of which severally, he gives us a Notice of the Dignities throughout the *Præfecti* of the East. But he, not only increaseth the penalty formerly imposed, from twenty five, to forty pounds of Gold, upon him that receives any into his Patronage; but imposeth the double, or eighty, upon such as seek for such Patronage and Protection, to defraud the Treasury of Tribute. This he enjoined to *Eutyrius* the Prefect; but toward the latter end of *February*, and toward the end of *May* following, he was forced to renew his Commands to him; whereby he signifies, that, To all former Laws against this Crime, he thought fit to add greater punishment: That if any shall be found to grant Protection to Husband-men, or such Country-men as possessed their own Lands, he should forfeit his Estate; and such Husband-men, their Grounds, as shall seek after such Protections. But this mischief not only tended to the impoverishing the Emperor, but to the starving, also, of *Constantinople*. For, though there was a Body, or Company of the *Navigularii*, which of course, and at solemn times, brought Corn and Provisions out of *Egypt*; yet, upon occasion, when any necessity urged, or the number of the *Navigularii* was found insufficient, the Ships alfo of private Men were pressed to the Service, for transporting of the *Annona*; so as none could be excused. However, some endeavoured to excuse themselves, by wearing, as it were, the Liveries of some great Men; and under their Name, and by their Interests, to protect their Vessels. *Arcadius*, to give a stop to this Course, so disadvantageous to the City,

And Mariners in *Egypt*.

A. D.
399.

L. 17. de Periculis
Cod. Th. Dat. 16.
Cod. Theod. ad op.
part. præp. p. 24.
Causa temp.
conjugum. E.
trois ad eccle-
siam consilij.
ad velle barones.
Causa de iur.
domestica valen-
tia dicitur.
Causa servum
libera matris e-
trahe-
ta per arbes
Offensuræ arbes
libalique of-
fensuræ arbes.

L. de Patroci-
nis vicariis.
Cod. Th. lib. 11.
lib. 2. de A.
H. Mani.

L. 1. de iur.
Dat. 1. cat. Jan.

gave

Seft. 1. gave order to *Entychianus* by another Law, which with the former, concerning Husbandmen made up one Constitution, that Proclamation should be made thorough *Egypt*, that every one that went about so to excise Ships in their Names or by their Patronage from the publique service, should incur a mulct of twenty Pounds of Gold, and the owner of them forfeit their Vessels if they admitted of such protection.

Unjust Accu-
sations now al-
so restrained.

94. As formerly upon the Death of *Rufinus* and Confiscating his Estate, followed an unjust prosecution of his Relations and Friends, which drew out an Edit from *Arcadius* for their just defence; so now the Informers being at worke, and several unjustly troubled about it, so now the Informers being at worke, and directed another Law of the same Nature to *Eutychianus*, whereby he ordains there the Punishment lie where the Fault is placed, that Kindred and known Familiars be protected from Calumny, being such as their Society did not render Guilty of the Crime, for as much as neither Affinity nor Friendship are any Crimes in themselves. He resolves that Offences shall reach their Authors only, and Fears shall proceed no farther than the Offence, which he commands him to intimate to all the Judges. There might be more need for this Law, because the *Macedonians* were wont to put to Death also the Kindred of those that were condemned for Treason, which though not ordinarily practised amongst the *Romans*, yet under cruel Princes, the Friends of those that suffered upon that Account, were wont also to be Sacrificed to their fury; which Practice *Arcadius* by this constitution now obviates amongst the *Greeks* and *Italicks*; though by this Law he doth not repeale that severe one made by procurement of *Eutropius*, whereby the Sons of those there made Traitors might be freed from the Pain contained in it; for amongst *Propinquos* or Kindred, Sons are not to be reckoned, but Brothers Sisters and other Relations. As to *Eutropius*, *Claudian* makes mention of his Sister; and as a Friend or Confidant speaks of *Leo*, but especially of *Hofius* the next in place and Dignity to himselfe in his greatness. Unlike in his first condition, *Eutropius* being a Pandor, often Sold; and hea Cook in *Spain*, but both Slaves, the Backs of them both having been torn with Lashes, and altogether like in their Aids and Tricks to abuse mankind. However by the Favour and Procurement it seems of his Brother Slave, he arrived at the Dignity of Comes Sacrarum Largitionum, and afterwards was promoted to be Magister Officiorum. The second in place, and Dignity to *Eutropius*

95. What became of *Hofius* we further know not, but though he fell from his Honours, as is very probable, *Arcadius* took care for the advancing of others this Summer, to a greater degree of Eminency. There were, as we have (hown in the former, two sorts of *Confiſſoriani Comites* in the Court. The one was Illuſtrious, conſiſting of the great Officers, as the two *Comites* of the ſeveral Treasuries; and the other but of the Degree of *Speſſabilis* being *Comites* of the firſt Rank, but called *Confiſſoriani* only, becauſe they were admitted into the *Confiſſory* to be preſent at the Debates, and hear the Anſwers of the Emperors, without having the Privilege of being Counſellers, as the Illuſtrious Perſons were. At this time

96. *Horatius*, who, as *Claudian* in several places hints, had during the War with *Gilco*, and topping up the Sea, procured Corn and Provisions out of *Gall*, now that all was clear, for the better supply of *Rome* betook himself again to reinforce the ordinary course of supplying the City. He discovered two sorts of Cheating practised in the Sale of the Lands belonging to the *Navicularii* and ob-

A. D.

3 5 9.

L. 1. De Navi-
bus non exco-
dis Cod. Tb. Lib.
13. tit. 7.

L12. D: Penis
Cod. To. Dat. 8.
Kal. Jac.

lib. 2. in Entrop.
— Sed pri-
ma potestas

confidunt apices
mini ditionis

transi nos et
archiepiscopum
Elphium

5. *De Pala-*
S. I. 8^o R.

CHAP. III.

Scd.

Hensyins still
indeavoursthat
Rome may not
want Provisi-
ons.

Strangers re-
strained from
indirectly g-
ting Lands.

Care taken for
Highways sca
dalously go
to Decay.

Against unjust Judges,

nxious to that Burthen; wherefore one was that they were often bought wth this condition, that the Seller, though unable, should undergo the charge of the Function; and the other, that on the contrary the Purchaser was often too poor to undertake the Charge. Now all such Contracts bewixt such Parties, by a constitution directed to *Messala* the *Præfectus Prætorio* he declared to be null, requiring a fit and sufficient purchaser in such Alienations, or the Function to be required at his Hands who pretended to Sell, that so no damage might accrue to the publicke. And because it was discovered that they had a trick of building their Vessels too little, so that they were not capacious enough to bring over the whole quantity of Corn, he commands *Messala* that this Chear be also for the time to come, prevented. He mentions not of what capacity a Vessel was to be of; But ordinarily it was required that each should be able to contain ten thousand *Modii* a *Modius* being the third part of an *Amphora*. Provisions being now plentiful in *Rome* and *Italy*, many Persons might well thence be encouraged to frequent and inhabit the Countries thereabout. And now, at this time *Honorius* in another Edict, informs us that out of many Nations, People came into the Empire, following (as he too truly expresth it) the *Roman Felicity*, to whom were granted Lands to Till and Inhabit, called *Terra Letice*, from those Strangers who, of what Nation or People soever they were, had the Name of *Letis*; as *Leti Alamanni*, *Leti Franci*, *Leti Batavi*. Lands being given them to Inhabit with certain Securities and Conditions; some of them were too Covetous, and got into their Lands a greater share than belonged to them, as indeed they and theirs got all at last; some by Rescripts surreptitiously procured, and some by Collusion with the Principals or Defensors. To redress this Inconvenience, he now ordered *Messala* to take care that none should obtain any of these Lands without Warrant from himself, and that an inspector should be sent to rectify what had been extravagantly done in this matter. But whereas the Emperor saith these Nations followed the *Roman Felicity*, the Event sheweth after she-w- that, whatever Felicity they sought for, they brought none along with them; but, multiplying so much, and siding with their Countrymen that invaded, Ruined and Destruction to the Empire.

97 At this time heavy Complaints were brought of the High-ways being out of Repair, in *Italy* or other places belonging to the Prefecture of *Messina*; and it was alledged that this proceeded from the Privileges granted to Illustrious Persons, whereby they were excused from mending such as lay next their Grounds, and also were the Houses of the Prince or those belonging to his Domaine. To remove such Scandal as arose to his Government from those Immense delays as he acknowledges them, *Honorius* now took off all such Privileges both from the great Men, and also from his own Houses, yet confirming all other Immunities granted either to Illustrious Persons or his own Patrimony. "Till about the beginning of *June* he had his abode at *Milan*, but then removed, and for that and the two following Months he lay at *Brixia*, *Padua* and *Atinum* as appears by the Dates of other Laws. This Summer in his Progress he met with grievous Murmuring against the Judges, for their denying Justice, and especially in refusing to admit Appeals; and as this Grievance was too frequent in *Italy*, so also rather more in *Africke*, where we find things much out of Order after the suppression of *Gilds*; during whose Tyrannical Government, in that Country matters could not but be driven out by their wouret Courts and Methods. Excited, as he saith, by the Complaints of many, by one Edict at the beginning of *June* he fineth that all Persons shall have free liberty to appeal from Sentences of injurious and suspected Judges, inflicting either Pains of Death or Detriment of Fortunes, and imposeth a Mult of twenty Pounds of Gold upon such Judges shall refuse to admit it; withal Fining his Office, or those of his Court, in twenty five, if they did not pertinaciously, as he words it, Contradict what he did, and show him what was Law. This Edict concerned the whole District of the *Prefectus Prætorio* to whom it was directed. But six Days after he found reason to enforce it by another sent to *Simplicius* the President of the Province of *Tripoli*, increasing the Fine both upon Judge and Officers to thirty Pounds of Gold; which shews how contumacious the Governors of that Country were in this concern. "But whereas he is so severe against the Officers of the Court, it is to be known that they were perpetual, whereas the Judges themselves were temporary, and therefore they had reason to know and understand the Forms and Methods of proceeding; as in all Courts, Actuaries and Registrars have.

A. D.

2.99.

L. B. Depradit
Naval and
Mar. Cod. To. &
L. B. Co. i. J. 1st
Cod. tit. Dat. 14.
Cal. Mar.

L. 28. De Nativitatibus Cod. 21.

Ranunculus ex
multis Genibus
constans. Ran.

 $\hbar_j^i l_j$

4. Di Einez
unido Cor.
Lib. 15. tit.

altorum quæ-

1. *Prälat*.
2. *Abt*.
3. *Just.*

Sec. 1. rannical Demand *Arcadius* assented, and they were accordingly delivered up into his Hands, whom, having received, he caused the Sword only to touch their Skins, and satisfied himself with driving them into Banishment. And he passed over into *Europe*, and commanding *Tribigild* to follow him, left *Asia*, to take a little Breath. He himself making his Abode at *Constantinople*, dispersed thence the Soldiers that formerly lay in Garrison; so that he left the City naked, even of the Palatine Guards. His Followers, the *Barbarians*, he had ordered, that when they saw the City clear of them, they should upon a signal given, seize upon it, and deliver all in it into his power; whereupon he left the Town, pretending he was unwell, and that he must betake himself into a place and condition free from care and trouble, and leaving there his Soldiers, he removed about forty Furlongs from the City, whence he expected to hear of some Commotions very shortly, that he might invade it. Neither had his Design failed him, but that driven headlong by a barbarous fury, he anticipated his time. Without any signal given, he brought his Men to the Walls, at the sight whereof the Watch being affrighted, gave notice to the Inhabitants, and such Lamentations and Tumults followed as are wont to be in Stormed Towns, till they united themselves, and jointly set upon the *Barbarians* that were in the City; whom having dispatched with Swords and Stones, and any thing else that came to hands, they retired to the Walls, and thence with such missile Weapons as they had, so distressed *Gaines* and his Men, as to hinder them from breaking into the City.

Which he endeavours to take by force.

Frustrated of that, and of spoiling *Thrace*, he resolves to return into *Asia*.

Fraxinus made General against him.

107. The City being, after this manner, secured, the Inhabitants intercepted more than seven thousand of the *Barbarians*, who return'd to a Church of the Christians, not far from the Palace, as to a Sanctuary; but there the Emperour commanded them to be put to death, thinking it not fit they should escape the punishment they had deserved, by any privilege thereof. Such order he gave, but none there was that durst adventure to fall upon them, or draw them out, fearing they would make head against them, and defend themselves. Thereupon it was resolved, that the Roof which lay above the Altar should be uncovered, that the Soldiers might thence cast fire down upon them; and destroy them by that means; and by that means they did indeed destroy them, but so such as were zealous Christians, a great peculiar crime seemed to be perpetrated in the midst of the City. However, *Gaines* being defeated in his purpose, now raised open War against the State, and falling down into the Country of *Thrace*, found the Towns both fenced with Walls, and defended by the Magistrates and Inhabitants, who being sufficiently taught experience by former incursions, had put themselves into a posture, and now made sallies out against him, having first got all things that were of any value within their Walls, whether Fruits, Cattel, or other sorts of Provisions; so that finding there nothing but Grass, he resolved to leave *Thrace*, to march into the *Cherronesus*, and through the Straits of the *Hell-spont* to return into *Asia*. While he was in hand with his frustrated designs, the Emperour and Senate made choice of one *Fraxinus* to manage the War against him, a *Barbarian* also by birth, but in other respects a Greek; not only in his Disposition and Manners, but also in his Choice, Affections and Religion. To him, who was already famous for many Commands, and had freed all the *East* as far as from *Cilicia* to *Phoenice* and *Palestine*, from Thieves and Robbers, they committed the Army, which having received, he opposed himself to *Gaines* to hinder his passage over into *Asia*.

108. *Gaines* perceiving he was matcht, exercised his Men, and prepared them for a Battel, and *Fraxinus* in the mean time was not idle; but restoring the ancient Discipline of the Camp, foined his Soldiers to labour and diligence, that they were vexed that the Enemy deferred the Engagement. Their General neither omitted, by night nor by day, to view and observe his own Troops, and discover as much as he could of the Enemies condition, and he was not negligent as to matters relating to the Fleet. For he had a number of Ships sufficient for a Fight by Sea, consisting of these they called *Ziburne* (or Pinnaces) from a certain Town in *Italy*, where those of that fashion were first built. These Vessels were full as swift as the Gallies of fifty Oars, but not to be compared with *Tirremes*. But *Gaines*, having broken through the long Wall, placed his *Barbarians* upon the Shore of *Thrace*, which is higher than the rest, and confronts these places that from *Parius* extend themselves to *Lampacur* as far as *Abydos*, where the Sea is contracted within the Straits. The *Roman* General patting with his Ships to and fro about these places both night and day, observed the Motions of the *Barbarians*. But *Gaines* being distressed for want of Forage, was impatient of any farther stay, and cutting down

A.D.
400.

Sec. 1. down Wood in the *Cherronesus*, fitted the Planks so accurately compacted together, that they were in condition to transport both Men and Horse, which he put aboard these Vessels, and at a convenient time committed them to the water; for they could neither bear any Oars, nor admit of the skill and industry of Pilots, being framed tumultuously, and after a barbarous manner. However, *Gaines* beheld them from the Strand, and imagined the *Romans* would not be able now to grapple with him, of which their General was no whit ignorant; yet conjecturing what his device would come to, commanded his Ships to put off a little from the Shore. But when he beheld the Vessels of the *Barbarians* carried down by the Stream, he set upon the first that came in order, and falling foul on her with the Beak of his Pinnace, which was covered and armed with Brails, after having plyed with Darts those that she carried, easily sunk her; which his Fellows beholding, imitated their Captain; so that such as took the Sea, being swallowed up of the Waves, scarcely any of them escaped with his life. *Gaines* sorely distressed with his heavy loss of so many Men, and not knowing what course to take, removed out of the *Cherronesus*, and passed farther into *Thrace*. *Fraxinus* thought not fit to pursue him at this time, but kept his Army where he then was, contenting himself with the Victory that Fortune had given him.

Who defects him at Sea.

109. *Fraxinus* was hereupon accused, that he did not prosecute his Enemy as he might have done, but suffered both him and the *Barbarians* that were with him to escape, being his Countrymen, and defended with him from the same Original. Hereupon he went to Court, and what was his defence? *Zosimus* tells you no more than this, that thither he went, as not conscious of any such crime, but carried himself high, and as one that had obtain'd so great a Victory, which he openly ascribed to those Gods which he worshipped. For he was not ashamed to confess in the hearing of the Emperour, that he worshipped and served the Gods, according to the custom of his Country, and could not persuade himself in this point to follow the opinion of the vulgar. The Emperour however received him, and designed him *Consul* for the following year. As for *Gaines*, he having lost a great part of his Army, as was said, baffled with the remainder unto *Ister*, and finding *Thrace* to be depopulated by former Irruptions, whatever he could meet with remaining, he made prey of it. But fearing he might be purified by some other *Roman* Army, which might easily overpower that small Force of *Barbarians* that was left unto him, and suspecting such *Romans* as followed him (for of these some there were) he caused them all to be massacred, when they suspected no such thing; and with his Countrymen passed the *Ister* with purpose to return to his own Abode, and thence to pass the remainder of his life. But while he thought of it, and was about so to do, *Uldes* (or *Huldin*) at that time Prince of the *Huns*, thinking it not safe to permit him, having an Army of his own Country Men, to take up and fix upon any Territory beyond that River, and judging he should do a thing very acceptable to the *Roman* Emperour, if he drove him thence; prepared himself to give him Battel, and gathering together his Forces, set them in order against his Army. *Gaines* considering that he could not now return to the *Romans*, nor by any other course escape the violence which *Uldes* was resolved to offer to him, went and gave Battel to the *Huns*. And they had several Conflicts, the Soldiers of *Gaines* valiantly demeaning themselves; but at length after a great slaughter of many others, though he fought with great courage and resolution, he himself was also slain. *Uldes* the Prince of the *Huns* sent his Head to *Arcadius*, and for so doing, was both courted by Presents, and received into a League and Society with the *Romans*.

But is killed by the *Huns*, according to *Zosimus*.

The Narration of *Zosimus* to be supplied and corrected by other Writers.

110. Such is the account *Zosimus* gives us of this Affair, which is true, as to the Substance; but the Circumstances thereof, as of all his other Relations, are either defective, or big of the prejudice wherewith he was acted, and hurried from that grave indifference and temper, which ought to be in all Historians. If *John* at this time when he was delivered up into the Hands of *Gaines*, was generally thought the Father of *Arcadius* his Son, the People must have been good Prophets that could tell he would have a Son so long before; for he was not born till the next year, in the Month of *April*. That *John* and his two Companions generously offered themselves to become a Sacrifice for their Country, and divert the fury of that bloody *Barbarian*, is attested by other Writers, and some other passages are related to have happened at *Constantinople*, during the Abode of *Gaines* there. The Man was a Christian, but an *Asian* in his opinion; and for himself and such like, he desired of the Emperour that a Church might be assigned in the City. The Emperour taking time to advise, made the thing known to *John Chrysostom*, the Bishop,

A.D.
400.

Prokhor. lib. 5. c. 32.

Sect^r. Bifhop, and ufed thefe arguments to move him to confent that he might have a Church; that he was very powerful, and aimed at the Sovereignty, and there was a kind of neceffity of pleafing his fierce and barbarous humour. The Bifhop faid it was not fit to admit Blaphemers to the liberty of propofing a Church where the Son of God was worfhipped, defired him not to be afraid of *Gaines*, but to call them two together, and let them debate the matter in his prefence ; for he hoped to pacifie him, and to perfwade him not demand that which ought not to be granted. The next day he got them together, and *Gaines* began to move *Arcadius* to the performance of his promife : *Fohn* told him the Church was open, and if he pleased, he might therein do his Devotions. He replied, that he was of another Se^t; and defired, that he might have another Church alone to himfelf, and thofe of his own opinion ; urging, that he had well deferved by his many Services, performed for the *Romans* in the Field. The Bifhop told him plainly, that his Rewards already expiated his Merits ; for he had the Honour of being a General, and enjoyed the Confular Dignity : That he ought as well to confider what he had formerly been, as what he was at prefent ; to reflect upon his former Poverty, and compare it with his prefent Abundance ; and the Cloaths he formerly had worn, with the habit which now he ufed. He perfwaded him well to weigh thefe things in his mind, and not be ingrateful towards them that had fo preferred him. With thefe and other words his Mouth was ftopped, and he had no more to fay.

111. For others write, that he upbraided him with the Breach of his Oath made to the Emperour's Father, whereby he engaged to be true to the *Roman* Interests, to him, and his Sons; and to be obedient to the Laws, which now he went about to break. He shewed him, that an Edict had been made by *Theodosius*, whereby Schismatics were prohibited to hold any Meetings within the City: and he used many persuasions to *Acadius*, to maintain what his Father therein had done. But however this stopped his mouth for the present, and the Bishop got the better as to the Church; *Gaines* consulted how to break his Oath, and destroy the City: at what time a Comet of a great Magnitude appeared over it, and seemed to predict the danger it was in, by its unusual Magnitude, streaming forth all to the ground, and making such a terrible fight as formerly was thought not to have been seen. He first attempted to seize upon the Wealth of the Bankers, and thence raise a great Sum of Money; but his Design was some way discovered; and they hid their Gold, and no longer exposed it to view upon their Tables: whereupon he sent a Party of *Barbarians* by night to fire the Palace. They, when they came thither, were struck with such a fear, that they returned without any performance, affirming they had seen a vast number of armed Men, terrible to behold, for the vastness of their Bodies, and they concluded it was an Army verily brought into the City. But he knowing there was no such Army to be come by, gave them no credit; and the next night after sent others, who relating the same thing, he went himself, and was a Spectator of the fight; at which he concluded, that there was indeed a number of Men which guarded the Court in the night time, and in the day concealed themselves. He counterfeited himself to be vexed by a Spirit, and as intending therein to pray, seized on a Church built by the late *Theodosius* to the Honour of *John Baptist*, in the *Hobdons*, seven Miles from the City. Of the *Barbarians*, some continued in *Constantinople*, others went out with him, and privately conveyed out their Weapons in Waggon's wont to be used by Women, which when the Watch discovered, they endeavoured to hinder; but the *Barbarians* shut on them, and put them to the Sword. Immediately the whole City was in an uproar, death seeming now to stand at every Man's Door; yet it continued safe, the Gates being once shut, and well fortified. The Emperour in the nick of time proclaimed *Gaines* Traitor, and commanded, that the *Barbarians* which were left within the Walls should be slain. The Soldiers accordingly fell to work with them, and killed most; and they burnt the Church of the *Goths*, wherein they that they had no way to escape.

112. *Gaines* hearing that his Complices, he had left behind him in the City, were put to the Sword; and perceiving, that his treacherous Design was come to nothing, left his hypocritical Prayers, and got him to the Coasts of *Thrace*, where he filled the Country with Fire and Slaughters. One writes now, that *Chrysolom*, the Bishop, was prevailed with to go and persuade him to desist from these bloody courses; and how *Gaines* met him at a good distance, notwithstanding their former disagreement, kissed his hands, and made his Children embrace his Knees; Theodoret. l. 51. c. 33.
but

A. D.
400.

John Chrysostom
the Bishop,
plainly tells
Gaunts, his Re-
ward exceed-
ed his Merit.

And hinders
his having a
Church for
him and his
Arians.

He attempts to
seize on Con-
stantinople in
vain.

Theodor. 4. 51
c. 33.

Sect. 1. but what became of this Messias, he saith not. Whether he was sent at this very time or not, it is evident enough, that he took some Journey to procure, if he could, the relief of the oppressed, and possibly the release of *Aurelian*, the Consul, and *Saturninus* from Banishment, for so much he expresseth himself in a certain Homily, the Title whereof is, *The Homily of S. John Chrysostom, when Saturninus and Aurelianus were driven into exile*, and *Gaines had left the City*. Therein he tells his Auditory, That he had been silent a long time, but not through idleness, or any fault of his own; but he had been abroad, composing Tumults, and laying such Storms as had risen; and endeavouring to bring into the Haven such as were cruelly tossed, and endangered by Tempests. This being done, he was now returned to them who continued in safe harbour, or ran their course in great tranquility. To them he went to lay the Storm; and he was now re- turn'd, that they at home might have no such Tempest arise. However, *Gaines* being come into the *Cherronesus*, as *Socrates* writes, resolved to pass thence over to *Lampacius*, to reduce the Eastern Parts under his power. But the Emperour having sent away Forces to oppose him both by Sea and by Land, a miraculous thing happened by God's providence. For, the *Barbarians*, wanting Ships, made use of Boats they made for the purpose; and in them they attempted to pass over; just as the *Roman Fleet* happened to come by. The wind blew very hard, and the *Romans* easily passed over; but the greatest part of the *Barbarians* was drowned, together with their Horses, being grievously distressed by the Tempest; and some of the *Romans* also, miscarried. As for *Gaines*, he took another course through *Thrace*, and falling amongst other Forces of the *Romans*, perished with those *Barbarians* that were with him. These things *Socrates* having related, refers us to certain Authors, which I with it were as easy now to find, as it was to him to mention. He bids us, if we would know accurately the History of this War, to read the Poem called *Gains of Eusebius Scholasticus*; who at the same time was the Scholar of *Troilus*, the Shophist; and being an eye-witness, described it in four Books, written in Heroick Verse: a Poem which was in great esteem, the matter being so fresh in memory. After him *Ammonius* the Poet treated of the same Argument in Verse; and in the eleventh Consulship of *Theodosius junior*, which he bore together with *Eusebius*, recited it in the presence of the Emperour, with great applause.

113. But such is the account we have of this matter from such Writers, as the injury of time hath left unto us. To be sure, so great a Disturbance there was this year at *Constantinople*, and in the *East*, that we find but two Constitutions of *Arcadius* directed to his Officers, whereof the one was at the beginning, and the other at the end of it. The former was a Rescript directed to *Ammianus* the *Magister Officiorum*, who had moved him in behalf of the *Fabriceus*, or them that forged Arms at *Antioch*. He tells him, that following his suggestion, he had commanded that all trouble should be removed from their Houses; that he had written his Sacred Letters concerning this matter to the Illustrious, the *Comes*, and *Magister Militum* through the *East*; that the Houses of the *Fabriceus* of *Antioch* should be exalted from lodging any persons, except he and his Court happened to be there, and not only theirs, but such as belonged to the *Forges* of the other Cities, by which we are to understand those of *Damascus* in *Phœnicia*, of *Adelasia* in *Ostroena*, and of *Trenopolis* in *Cilicia*, which the *Notitia Imperii* sets under the Disposition of the *Magister Officiorum*. “The other Constitution is directed to *Cæsar* the *Præfectus Prætorio* of the *East*; and it is concerning the *Adfessors*, or Assistants of Judges. For such the Judges or Governors of Provinces were wont to have by them, ever since the days of *Augustus*, who thought fit, that they, being often no Lawyers themselves, should have those that were learned in the Laws, to assist and inform them in their business. Now, as none could ordinarily, and without the especial license of the Prince, be Governors or Judges in his own Province, for fear of seditious practices, as sometimes it happened; or for that they might be overwayed in Judicature by the passions of Hatred or Affection: so *Pescennius Niger* formerly ordained, that none should be an *Adfessor* in his own Province, and that for the same reason. But it happening sometimes, that the Governors being sent in haste to the exercise of their Jurisdic-tions, could not procure Lawyers out of another Province, or from *Berytus*, which in the *East* was the famous Nursery of them; therefore *Arcadius*, it being indifferently permitted before, gives them leave to have *Adfessors* of the same Province, but only for the first four Months; which time he thinks sufficient, wherein to provide themselves elsewhere.

ives leave,
that Per-
sons of the
me Province
may be Aff:ff:
for Months

Lib. 6.6.5:

8. de Martij.
od. To. Dxt.
t. Cal. Feb.
misp. & l. 4.
od. Just. tod
t. mivè hinc
argelata.

de Affiss.
us domestic.
Cancellar.
Th. lib. 1.
12, Dat. 6.
Decemb.
a Cod.
9.

Sect. 1.

Honorus pre-
fers the Pre-
torian for the
Governors of
Provinces.And his own
Lands from
being extort.He takes care
for restoring
the Army.

114. The *Questor of Honorius* in the West had better leisure to employ his Pen. Though all things were in repose, as *Claudian* tells us, for the Honour of the Consul *Silicho*, (which others think they have cause not fully to believe, the Barbarous Nations beginning this very year to draw down into the Western Provinces) yet however the late difficulties and fears for the future, required such care and circumspection, that the Roads and other places throughout the Provinces, were constantly full of persons of employment and quality, who were sent to provide against any Disasters that might befall them. Hereupon, as we have already seen in the East, complaints were made about their too free and bold taking up of Quarters, or Lodgings; and the first Law made by *Honorius* this Year, at least now extant, was made upon complaint of the Ordinary Judges of the Provinces (as *Præsides*) that they were jostled out of their *Prætoria* or public Houses, by greater Ministers; as the Illustrious, or others, who had occasion to travel their ways. This grievance was especially in *Gall*, to the *Præfect* whereof, the Emperor now wrote, commanding him to give notice to all such Ministers, that they obtained from the *Prætoria* of the Ordinary Judges, when they themselves there resided: "otherwise permitting publick persons to make use of these Houses which were destinated to publick service; for in the Summer time they were in their Circuits or Visitations; and possibly in one Country there might be several of these *Prætorii*. To be sure, the Houses belonging to the Emperor's Domain, were secured from the *Ministri*, or liberty of Quarter; and, as those he formerly possessed, so by the same reason, such as of new, fell, or accrued to him by reason of forfeiture for Treason, or other respects. Yet he was forced by an Edict sent to *Pompeianus*, the *Proconsul* of *Africa*, to protect the Lands which had belonged to *Gildas* and his Complices, and were lately confiscated and fallen into his hands, by imposing a Fine of five pounds of Gold upon him that should enter upon them with purpose to stay, or make any Abode therein."

115. The condition of the times, wherein there was always cause to fear Incurfions from the Barbarous Nations, required, that the Armies should be reinforced, and kept in as good Discipline as might be. For this purpose *Silicho* procured a Rescript to be directed to himself for restraining the liberty now taken of obtaining the privilege of a *Veterane* Soldier, by those who had no right nor title. *Honorius*, in his Rescript, declares, That most *Veteranes* were so made, by virtue of Testimonials fraudulently got; having, indeed, never been Soldiers: and some, when but newly entered, in the flower of their Age, went away from their Country. To redress this mischief, he commands, that every *Letus Alamannus* (of which we lately spoke) wandering *Sarmatian*, Son of a *Veterane* Soldier, or obnoxious to some Body or Society that belongs to the Legions; be drawn out of his Retirement, and imbodyed in the Army, notwithstanding any Testimonial obtained from the *Præfectors*, or persons of any other Dignity. Moreover, that such as had received any Missions, or been discharged from Service, be drawn back again to the Camp; and no excuse be allowed, except it be of Old Age, Infirmary of Body, or Wounds. And, because many were found, either before they entering into Military Service, or afterwards, before it was duly finished, to be hid under pretence of pious Religion, and to defend themselves; not so much by observation of Religious Worship, as the love of Idleness and Slothfulness, covered under the name of Clerks, and busied in the unlucky Obsequies of the Dead: He will have none to enjoy any benefit of such excuse, except they be so broken with Age, weak in his members, or small and deformed in his stature; that he be unworthy the Society of Valiant Men. But he owns at last, that one, having passed through all the Duties belonging to the *Decuriones*, the *Præpularii*, *Collegiati*, and other Companies, may be excused from the *Militia* of the Camp. There was another Custom in the Armies at this time; which, however formerly allowed of, was found to tend to the Discouragement of good Soldiers, if to no other worse effect: and that was, of changing or transferring Men, from one *Numerus*, or Regiment, to another. To obviate this, *Silicho* procured another Rescript, directed to him as *Magister Militum* in *Gall*; wherein the Emperor declares, That he will not have these Translations made, contrary to the publick Utility. He will have, therefore, all *Comites* and *Duces*, that have any Military Commands, to take notice, that it shall be unlawful, not only to make such Translation from the *Comitatenses* and *Palatinii*, to other *Numeri*; but also, from those called *Pseudo-Comitatenses*, the *Riparienses*, *Capriciani*, or the rest: giving this reason; Because the Augmentation of Honour ought not to proceed from Ambition, but from Labour and Diligence. If any transgress this Command, for every Soldier, he shall pay a pound of Gold.

A. D.

400.

L. 1. de Militiis,
Cod. Th. l. 1. de
Cod. Th. l. 1. de
Cod. Th. l. 1. de
Cod. Th. l. 1. deL. 1. de Militiis,
Cod. Th. l. 1. de
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Cod. Th. l. 1. de

Sect. 1.

Profectors sent
into the Pro-
vinces to bring
back Straglers
to their Co-
lours.Inhabitants of
Towns also re-
called.Mediterranean
brings several
Complaints
out of Africa.Which Honorius
endeavours
to satisfy.

116. The former Law of *Honorius* did so little good for the bringing back of Straglers to their Colours, that the *Profectors* were forced to be sent down into *Gall*, to make Inquisition after the Sons of *Veteranes*; those they called *Vagi*, or Wanderers, from one Seat where they were obnoxious to the *Militia*, to another; and those, who, by reason of their Original, were tied to the Service. This we find by another Edict, directed, this Summer, to *Vincenius*, the *Præfect* of *Gall*; whereby the Emperor takes care, that those *Profectors*, or *Inspectors*, be intent upon the business, about which they were sent; and offer no injury to the Possessors of the Lands. But, not only did Soldiers now stray from their Stations; but so great were the Tumults, Fears and Disorders of these times, that the Inhabitants, and such as were imbodyed into Cities, Towns and Boroughs, ran away from their Houses and Charges; to the great disparagement, and loss of the places where they once lived. Some betook themselves to a Country Life; living secretly, and out of the way, in the Services, and Tillage of Great Men: Others were content to become a sort of Villains; and to marry the Slaves of those, in whose Grounds they could hide themselves: And some wandered up and down, they knew not well whither. What the reason of this great and extravagant disorder should be in particular, we cannot well guess: Some attribute it to the Injustice and Oppression of Lords and Corporations; who treated these men so ill, as to force them to run away. But, when ever the Ruin of a Nation draws near, Vice abounds, and the minds of Men are possessed with Giddiness and Extravagancy; betraying it self, sometimes in one Symptom, otherwhilens in another. The Emperor, informed hereof, took notice of what tended to the disgrace of the Government, in a large Constitution, directed, also, to *Vincenius*, the *Præfect* of *Gall*; whereby he commands, That where ever they can be found; such persons be brought back, without the addition of any excuse. As for their Sons that were born before forty Years, he will not have them meddled with: But such as they had begot within that time, shall be divided betwixt the Lords, whose *She-Slaves* or Villains they had married, and the Bodies or Companies (called *Collegia*) which they had deserted; and to which, now, they were to be drawn back.

117. Where the publick Benefit was concerned, he would allow of no such Prescription; but thought fit to admit of some temper in matters relating to himself or private Men: So that if any pretended to be a Villain, or perpetual Servant; had been in the nature of a *Curialis*, a *Collegiate*, or *Burgarius*, for thirty years; though the Domain of the Prince, or any private Person, challenged him, their Claim should be extinguished. And because often it happened that the Members of Bodies or Companies ran away by Connivance of the Chief Officers, he strictly charges the *Præmores* and *Defensores* to look that none escape; imposing Banishment upon such as should, out of favour, connive at such Escapes. Further, to put a stop to the boldness of Villains in running from their Lords; he ordains, That such Lords as were *Bona fidei possessores*, should have the benefit of the *Interdictum Atrubri*, for restoring such a Fugitive immediately into his possession, and the Title to be proved afterwards; as was usually, in case of Forcible Entries, or things taken away by violence. At this time one *Masilianus* arrived at Court; being sent on a Message out of *Africa*, to procure a Redress of certain Grievances. What they were we may well understand from the Constitution of Redress it self, which he carried back to *Pompeianus* the *Proconsul*; divided now according to the several Matters, into several Laws, and under divers Titles. One thing he had in Communion to complain of, was, That the Sons of *Pagan* Priests were compelled to succeed their Fathers in that troublesome and superstitious Employment; which the Emperor, in his Answer, judges unreasonable, and prohibits. He complained also of the great oppression of the poor Provincials in reference to Tributes; which happened through the iniquity of the Officers partly, and partly through the Inequality of the Distribution; the richer Men gaining licence, when the Poor were harassed with Payments. Particularly, there were very wealthy persons, that had vast Sums of Money at Interest, and great Income thereby, and paid nothing for them: In Answer to which, *Honorius* returns, That it is fit that all Negotiators or Traffickers pay that Contribution called *Lustralis Penso*, or *Collatio*; and not only those who exercise Commerce in Cities and Territories, but those also, who have daily Incomes by the way of Usury. Esteeming that with Money to be as much Traffick and Commerce, even as the ordinary way of Merchandizes.

118. Another thing, as to the inequality of burthens was complained of: Which was, that the *Veterane*, or *Emerite* Soldiers, coming into possession of Lands that

A. D.

400.

L. 1. de Difi-
tibus, Cod. Th.
l. 1. de
l. 1. deL. 1. de Difi-
tibus, Cod. Th.
l. 1. de
l. 1. deL. 1. de Difi-
tibus, Cod. Th.
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tibus, Cod. Th.
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tibus, Cod. Th.
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l. 1. deL. 1. de Difi-
tibus, Cod. Th.
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l. 1. deL. 1. de Difi-
tibus, Cod. Th.
l. 1. de
l. 1. de

Sect. 1.

Officers in the
Collection of the
Revenue, retained
from oppressing the peo-
ple.An Act of In-
dulgence to
Prisoners.Precedence
determined
between *Curia*,
Senators and Treas-
urers of Dio-
ceses.Houses and
Grounds lying
in Cities subject
ed to Taxes.And with
great reason.

were subject and liable to the *Confus*, pretended an Immunity due to them; and avoided the Charge. This he also disapproves of; and commands, that they be compelled to make due Payment as soon as they come to such Lands. But the Provincials were miserably abused by the *Suſceptors*, *Tabularii* and *Compulſors*. Officers employed in the receiving and exacting of the Revenue; who, being in *Aſſick* removed from the Emperor's eye, beyond the Seas, took the greater liberty to play the Knaves. They had got a trick, nor to accept of the *Apocha*, or Acquittances, which had been given at the payment of the Tax: And that they might the better bear down those that produced them, were wont to fend such as wrote them out of the way. For Redress of this, the Emperor commands, That the Clerks that write the *Apocha*, or Discharges, be not changed for one Year; that so they may be ready to own their Hands; except they be found to be faulty. Then, he will have every four Months Breives to be sent, with the Acquittances, to the *Tabularii*; that they may be compared together, to see whether the Records do answer the Tax-Books, and the same Payment may not be exacted twice. And, in case any *Suſceptor*, or *Tabularius*, be convicted of Fraud by any Possessor of Lands; he forbids that he be ever again admitted to the Employment, though he produce a Rescript clandestinely obtained. In like manner, if a *Compulſor* be found to oppress the people, by compelling them to pay more than their due, he commands, that the severity of the Laws be executed upon him: But this not having the due effect, twelve Years after he ordained by another Law, on purpose directed to the *Proconſul*, that this sort of Officer should be quite banished out of the Provinces of *Aſſick*. *Anaſtaſius* the Emperor, afterward, so far admitted of *Compulſors*, as to have them execute their Office, not upon the Provincials, but the Judges themselves, and their Officers: but *Justinian*, at length, took them quite away. As to *Honorius*, he further ordained, That none of the *Numerarii*, *Tabularii*, *Aſſeſſarii*, or such as were employed in gathering the Revenue, should be admitted the second time to be Principals of the Office, under pain of Deportation, lest they should too much improve their Skill and Experience for their own Advantage.

119. He continued at *Milan* till toward *August*, and then took a Progress to *Revenna*, *Brixia* and *Aquileia*; wherein he spent some three Months. At *Revenna* he granted out an Edict of Indulgence, whereby should be set at liberty all persons that were banished, condemned to the Islands, or to the Mines; so as they might freely return to their own homes, Contumacious Persons excepted, who had not obeyed the Sentences of the Judges, but refused to go to the places to which they were confined. Thus kind was he to the Criminals, whether out of respect to filling his Army, or the Companies of Cities and Corporations, by his Edict directed to *Romulus* as *Præſectus Prætorio*. From *Brixia* he sent Directions to *Flavianus*, the *Præſect* of *Rome*, concerning Appeals in Criminal Causes from the *Vicar* of the City, That in matters of Consequence, they should go as formerly, to the Prince himself; but in smaller, or rather, pretended Crimes, to the *Præſect*. Lying at *Aquileia*, he determined a matter of Precedence, of which there was a kind of doubt and controverſie betwixt those who had executed the Office of *Conſularis*, and the *Comites*, which belonged to the Tribunes and Treasurers throughout the Diocesses of *Italy* and *Gall*: For every Diocess had a *Comes Largitionum* of their own; and they were to be subject, and to answer to the great Treasurer, the Illustrious *Comes Sacrarum Largitionum*, they themselves being but of the Degree of *Perſeſſimus*. In like manner, as there were the Special *Comites Largitionum*; so there were Special, or Under *Comites Rei Privata*. Now, the Emperor determines the point in favour of the *Conſulares*; giving them precedence before all such *Comites Italianorum*, and *Galliarum*, as he calls them. And with good reason alleged: For, faith he, its no small Title of Merits, to rule *procurator* Provinces. Ordinary Power, with Jurisdiction, though the Province subject, of lesser extent, was more honourable than an Undercharge about the Revenue, though diffused to a larger Compaſs. But now we are speaking of the Revenue, a considerable Accident happened as to it, about this very time. Formerly the Houses and Grounds lying in Cities were not ordinarily, nor in course, subject to any Tax or Collation. But now, urged by the necessity of Affairs, *Honorius* thought fit to subject them to an extraordinary Imposition; but with a distinction betwixt those that were but of little Income, and them that were of larger Rent. The latter, he commands, shall pay one Years value in three; and the former to go loose, being free from all Tax and Incumbrance.

120. And great reason and equity there was for this: that, in the distress of the State

A. D.

400.

L. 28. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 27. de *Sale-*
tionibus, *et*,
Cod. Th.L. 1. de *Legem*
conſulibus, *et*,
Cod. Th.L. 2. ad *Legem*
de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Indul-*
gentiis, *et*,
Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 1. de *Assen-*
tiis *et Tributi*,
Cod. Th.

Sect. 1.

None yet ex-
cepted.The *Curia*
Publica regu-
lated.

State especially, and the dangers of the Commonwealth, wherein they were as much concerned as any, the Possessions of Cities should contribute toward the public Charge as well as the others living in the Country; they bringing in as much profit, and being managed with less Charge. Such were the *Horrea*, or Store-houses, wherein the *Romans* were wont to lay up their Merchandise; as Corn, Wine, and other Provisions; and let them out to great advantage. And so they did their private Baths; their Shops, in which was great Trade driven; their dwelling Houses; their *Canales*, or Buildings, raised on purpose for Entertainment; and their Salt-pits. All these he subjects to this Payment in all Cities, *Rome* excepted; which terming by the Title of *Urbs Aternabilis*, he confesseth, that the reverence of her Majesty doth excuse. Neither will he have the *Municipes* of the Baths or Salt-pits, which served for the use of the *Roman* People, subject to this Payment, as being obnoxious to the finding of Wood, and other Dues: Nor such as farmed Salt-pits; who were bound to pay, after the usual manner, other Taxes for what they held. From what he ordains concerning the third Year, it is probable that the Leases of private Houses, as well as of publick, were, in this Age, usually let for no more than three Years: But, the great Expence of War, and providing against the continually feared Inroads of the Barbarous Nations, put *Honorius* upon more than ordinary Courses of raising Money; and also, upon quickening the Payment of it: in which some were so backward, that they would neglect to pay their Tributes for above a Twelve-month together. He ordered at the latter end of the Year, *Salvianus*, his *Comes Rei Privata*, to exact what was due from rich Men, and such as were able to pay; and besides that, fourfold of the Value, as a Mult. The meaner sort, having some excuse for their Poverty, he subjects not to the same Censure: though he saith, they deserved to pay one half for their backwardness. The *Curia Publica* being again out of order, by several Laws he now endeavoured to reform it. Some without Licence would make use of it, whom he commands the ordinary Judge, to fine a pound of Gold for every *Paraveredus* and *Parangaris* is used; threatening the *Curatores Defensores*, and the *Principales* of Cities, if such were not apprehended, and sent to the Judges; who, if they neg- lected to prosecute them, they and their Offices should incur forfeiture of the double value. Provisions for Cattle were so dear, that such Beasts as served in the *Curia* were almost starved; and the Countryman, that found them not in *Specie*, but in Money, was much oppressed in the Contribution. This Inconve- nience he also commanded *Messala* to redress.

121. *Vicars* of Diocesses had been prohibited by several Laws to take upon them to grant Licences for the use of the *Curia*, except the Necessities of the State required it. But now, *Macrobios*, the *Vicar* of *Spain*, made bold to break the Rule; and for that, had a Mult imposed upon him for his Temerity: Which, that others might avoid, the Emperor commands *Vincentius*, the *Præſectus Prætorio* of *Gall*, and Successor of *Theodorus*, to give warning to all the *Vicars* of his District. And now, being still called upon to reform the Officers of the Revenue, who had least need to vex and harass the poor Provincials at this time, which required more than ordinary Supplies; as he had ordered *Messala*, to see that the *Municipes* which belonged to the *Curia Publica*, should not vest them, by exacting more Money than was needful, under pretence, that Provender was dearer than before: So he gave him Command to control the *Disſectors* and *Apparitors* in a course they took, to make prey of them, by requiring a sight of such Acquittances as they had lost, or at present could not be found; and for want of producing them, come upon them again; and make them pay the Summ the second time: a thing sometimes done also by the Governors of Provinces, who pretended ignorance of what was paid during the Administration of their Predecessors. Now, for as much as when an Acquittance was received, it was to be brought to the *Tabularius*, who was to enter it into the Books of Accounts, and to cross the Books of the Taxes, *Honorius* declares, That if it appear from the Books that the Money was so paid, it shall be enough, though the Acquittance itself cannot be produced. Another Grievance was, that such of the *Decuriones*, or of other Bodies, as hired publick Grounds or Houses, having formerly belonged to the Temples; or held them by perpetual Right, were turned out of them by the Officers. He commands, That they be suffered, quietly to possess and enjoy them, without admitting of new Tenants, under pain of the *Palatine* Offices, admitting of such Alterations, incurring a Fine of ten pounds of Gold. But the Provincials were injurious and troublesome to another. When a Man was sued for any Lands or Possessions, he would pre- tend,

A. D.

400.

L. 2. de *Collat-*
ione *et Tributi*,
Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 2. de *Assen-*
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Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.L. 2. de *Assen-*
tiis *et Tributi*,
Cod. Th.

Sec. 1. tend, that those Lands belonged to some great Person; and set up the Title, or Name of this Person upon them (as the custom was, for the Owner to have his Title upon his Lands or Houses,) thereby to terrify the Plaintiff, and affright him with thoughts of going to Suit with so great an Adversary. This the Emperor so far distates, as to inflict Infamy upon any person, allowing his Title, or Name, so to be used: And besides a Forfeiture of the thing, commands him that doth it, to be beaten with the *Plumbata*, or Plummers, wherewith Malefactors were wont to be chastised.

A. D.

400.

*Law de fili qui
parent non, in
litis pacted, lib.
22, tit. 14, c.
Lxx. Cod. Juri.
et Lit.*

A. D.

401.

*Vincenzo &
Fravitta, Conf.*

*L. 17 de Bonis
Pupillarum, Cod.
Th. D. 1, 4.
Cod. Juri.*

Begging of
Guns his Ex-
cite refrains
ed.

122. The Year CCCC, of our Lord, had *Vincenzo* and *Fravitta* for Consuls. *Fravitta*, or *Fravitus*, was made Consul for the good Service he performed against *Gais*: Who, being declared a public Enemy, his Estate, and those of his partakers, were confiscated, according to the Custom in such Cases. And now flattered Petitioners and Beggars, as fast as Crows about a Carcase, to represent the Voracity of whom, *Arcadius* published an Edict, directed to *Studius*, his *Comes Rei Private*; whereby he absolutely prohibited the begging of any Estates confiscated, within two Years from the Confiscation, or the Deportation of the Party. One reason for this he gives, that he may have time to consider; and possibly (as his Nature, he saith, is) to mollify the hard fortune of the condemned person by his Imperial Humanity. Another, that within that term, such Estates would seem rather to belong to other Men than to the Prince, the memory of their former Owners being still fresh; so that he should seem to give away what was scarcely his own: an Argument drawn from Modesty, as the other from Humanity. If any be so bold as to ask any Estates before two Years be expired, he declares, such Petition shall make the thing ungrateful to that person. Whatever delight this brought to distressed persons, great joy happened at Court in the beginning of *April*, or the fourth before the *Ides* thereof, when the Emperors was brought to Bed of a Son; whom they named after his Grandfather, *Theodosius*. The same Year there happened not much of Action, either in the Eastern or Western Parts; though *Marich*, having all this while layen in the Bowels of the Empire, harassed *Epirus* and *Pannonia* at his pleasure; and now, had a longing desire to be in *Italy*. As *Arcadius* was not much molested by fears of Hostility, so as to disturb him in the pleasure he took in his young Son; so, neither did his *Questor* hinder much his Diversion, by requiring Audience in reference to the signing of Edicts or Laws. For we find but two more made by him this Year: whereof, one concerning Immunity from Burthens, granted by him, to such as had been *Proximi* in the *Serina*, or *Comites Depositionum*; and now were admitted to be Senators: Whereas the Charges of the Senators were many and great; as the *Glebalis Collatio*, and other Voluntary Payments upon extraordinary occasion; as, after Victory, the Destruction of a Tyrant, the Celebration of the *Quinquennalia*, of *Decennalia* of Princes, or the like: He gives Order to *Clarcus*, the *Præfect* of *Constantinople*. That these, his *Senators Allecti*, be freed from all Obligations to them; and only pay the *Soldi* yearly; which were required of the poorer sort of Senators, at this time; though afterward, wholly remitted.

Præfidi and o-
thers that were
made Senators
freed from
Burthens.

Præfidi sets
the Rate of
Horses in A-
frica.

Removes a
Cheer of the
Sufceptors.

123. *Honorius* was also so much at leisure from War, as to make preparations for it; which he had reason to apprehend. As his Brother at *Constantinople*, he continued at *Milan* till the latter end of the Year; and then went to *Atinum*. At *Milan* he was put in mind of the state and condition of *Africa*; which, as it had been assaulted by Tyrants and Rovers, upon the Borders, so still presented matter to verify the old Proverb, That it always afforded some new thing; some Monster, something of Disturbance and Innovation. For representing these Disorders, and maintaining their own Quiet and Repose, the *Provinciales* were wont to supply the Government, as with other things, with Horses, or Money paid in lieu thereof. It being now again questioned, at what Rate an Horse should be set; *Honorius*, by his Rescript directed to *Pompeianus*, the *Proconful*, sets the price at twenty *Soldi*; out of which, seven he will have allowed to the Soldiers, for finding themselves Horses, this being an extraordinary Imposition. And for the ordinary way of Contribution, he afterwards gave order, that payment should be made according to the Wealth of the Provinces, or the goodness of the Horses: And that the *Comites Stabuli* should receive two *Soldi* for their Fees, and, as had been desired by *Gaudentius*, the *Comes* of *Africa*, the Soldiers seven *Soldi* for their Horses. "There was now discovered a Cheat, in that Country frequently committed by the *Sufceptors*, or Receivers of the *Annona*, or Provisions: who were wont to give these Provisions, or Money, before-hand, as was pretended, to the Soldiers, and take their Acquittances: Whereby it came to pass, that the Soldier, living spent all to-
gether,

A. D.

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*Law de fili qui
parent non, in
litis pacted, lib.
22, tit. 14, c.
Lxx. Cod. Juri.
et Lit.*

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401.

*Vincenzo &
Fravitta, Conf.*

*L. 17 de Bonis
Pupillarum, Cod.
Th. D. 1, 4.
Cod. Juri.*

Sec. 1. together, and lived unfrugally for some time; then fell in want, and deferred the Service; and that in the Provinces of *Namidia* and *Maurisania*, which were upon the Borders, and required the care and diligence of Military Men in an especial manner. To the maintenance of these Provinces, they of *Africa Proconfularis* were wont to contribute: And therefore, the Emperor commands *Pompeianus*, That within his Jurisdiction, no such Money be given before-hand; nor any allowed, but what appeared from the Books of Accounts. And all such Acquittances received from the Soldiers, he declares, for the time to come, shall be null and void. "And because the Governors of Provinces were often negligent of collecting the Revenue, which was part of their Charge, under the *Præfects*: By a particular Law he now enacted, That such as were found so to be, should return all the Profits and Advantages they had received, during their Administration.

A. D.

401.

*L. 22 de Soluti-
onibus, Cod. Th.
D. 4, c. 1, lib.
2, tit. 1, c. 1.
Cod. Juri.*

*L. 11 de Juri-
dictione, Cod. Th.
D. 2, 3, c. 1.
Cod. Juri.*

Quickens the
Ridginess in
raising the Re-
venue.

Does his ut-
most to satisfy
his Subjects of
Africa.

He is constrain-
ed to remit
Arrears

124. The *Tabularii*, or those that kept the Books of Tributes, of old, were public Slaves; which Custom being grown obsolete, the Slaves, or Villains, (*Coloni*) of private persons, were often, now a days, employed in the Accounts. This was thought very indecent, and against the Commonwealth; and as such, *Honorius* prohibits it; whether these *Tabularii* be made for an whole Province, or a particular City: So as, whatever Lord, for the time to come, shall, knowingly, allow his Slave, or *Colonus*, to be thus employed, shall be answerable for all the Accounts managed by him; and such Slave or Villain shall be confiscated, or fall to the Exchequer. As for what was past, he doth not require that the Lords should give an Account; but yet, produce them, and have them forth-coming; that they may be subject to Examination by Torture. "But, the effect of the care which was taken for *Africa* was, or as it seemed, would be, this; that heavy Complaints still came over, of the burthens sustained by the Inhabitants; who, in particular, alleged, that they had paid more than was necessary in a late extraordinary Tax, for delaying the public Charge. Once more, to redress, or prevent their Grievances, *Honorius* commands *Pompeianus*, That if there be any Overplus, it be allowed at the next ordinary Payment that is to be made. "And, to quiet their minds, he wrote to the *Provinciales* of the *Proconfular* Province themselves; as also, to those of *Namidia*, *Byzæna* and *Tripolis*; assuring them, that he had with care and circumspection determined, that nothing more, in an extraordinary way, should be put upon them, but what the more Necessities of the Army required. "And if any thing more should happen, it should be allowed in the next Indiction. And as for the finding of Horses; they of *Namidia* should pay, instead of twenty, but eighteen *Soldi* for every Horse that was extraordinarily raised for the *Cursatores*; or such as had care of the Borders: and the *Byzæni* and *Tripolitani* only fifteen; for those of *Namidia* were most excellent. Further, whereas they were much vexed, upon such occasions, by those called *Opinatores*; who were Soldiers sent to exact such extraordinary Tributes as were behind, as the *Options* exacted from the *Sufceptors* the ordinary or Canonical Payments; he declares, that they shall call, and be urgent upon, the Judges and their Officers, so as the Tax be raised within the space of a Year. In the last place, He acknowledges he had found that many had oppressed them, by pressing Carriage-Beasts for *Paraveredi* and *Paraverærie*: But, to prevent it, he ordains, that none, for the future, presume to use such liberty, but in publick Necessities; and when they are furnished with sufficient Licence for so doing.

*L. 11 de Thela-
ris, Cod. Th. D.
4, c. 1, lib. 2, tit. 1, c. 1.
Cod. Juri.*

*L. 11 de Juri-
dictione, Cod. Th.
D. 2, 3, c. 1.
Cod. Juri.*

*L. 22 de Soluti-
onibus, Cod. Th.
D. 4, c. 1, lib. 2, tit. 1, c. 1.
Cod. Juri.*

*L. 22 de Soluti-
onibus, Cod. Th.
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Cod. Juri.*

*L. 22 de Soluti-
onibus, Cod. Th.
D. 4, c. 1, lib. 2, tit. 1, c. 1.
Cod. Juri.*

125. With such difficulty of Affairs were the Provinces pressed at this time, that when there was most need of Contributions, there was greatest want of Money. And this caused the Emperor to publish, not an Order for an extraordinary Tax, but an Act of Grace, or Indulgence, for what was still due of the usual and ordinary Payment, out of the District of *Andromachus*, to whom the Edict is directed; who, by corruption of the Text, is called *Præfect* of the City; but must have been *Præfectus Prætorio*, and probably, of *Gall*. To him *Honorius* declares, That he remits whatever Payments belonged, either to the *Præfects*, or to the *Comes Lar- gitionum*, till the Year wherein he himself was *Consul*, or the fifteenth Indiction, which was the CCLXXXVI Year of our Lord. And, to this purpose, he commands, that the memory of all such Debts, till that time, be utterly abolished; whether remaining in the papers of the *Tabularii* of the Cities (who kept the Books of Arrears, as well as of the Payments due; and published them every four Months, for the Information of the Exactors, who could not, without their signification, come upon any that had not paid) or of the Offices of the Judges, or of the *Palatine* Offices belonging to the Highest Treasurer, by whom the said
Reives

*L. 3 de Totali-
tate, Cod. Th.
D. 1, c. 1, lib. 2, tit. 1, c. 1.
Cod. Juri.*

SECT. I.

Breives were made authentick; or in the hands of the *Discessores*, who were sent to leavy the Arrears. All these Accounts he commands to be burnt. From the Year of his first Consulship, till the Consulship of *Olybrius* and *Probinus*; or that wherein his Father died, and he came to be Emperor indeed, his pleasure is, that the Exaction of all Dues be suspended, till such time as the ordinary Judges can give an Account in Writing; as well of the condition of the Debtors, as of the Summ due; that thereupon he may consider, who, by reason of their Indigence, are fit to be indulged, and who are able to pay their full Dues; which might sufficiently appear from the Books of the *Minifcularii*, who were the Under-Collectors; and of the *Curiales* themselves. But, from the Consulship of *Olybrius* and *Probinus*, or the Ninth Indiction, to the Date of this Law, he will have the Collection of all Dues to be hastened; certain Farmers of the Revenue, and others, excepted. These are such as hired the Customs of the Havens and Ports; the *Publicans*, or *Telonaarii*, who received Toll in Markets; the *Prepositi Thefaurorum*, of which, there were four in *Gall*; the *Prepositi de Bapbia*, of which, the *Notitia Imperii* mentions nine in the West; being Work-houses destined to the dying of Purple, and two of them in *Gall*: the *Procurators of the Gynacia*, of which we have already spoken; whereof, were sixteen in the West; and of these, six in *Gall*: And the *Procurators Montaniorum*, or of the Mints; of which, the *Notitia* mentions six in the West, and three of them in *Gall*. To these, with others, whom the *Palatine* Officers, or those belonging to the Treasurer, kept in their Books (as the *Prepositi de Argentarii*, or Silver-Smiths) he gives Plenary Indulgence; so as if they themselves at this time be deceased, yet their Heirs shall not be molested for their pretended Debts.

126. *Honorius* being so liberal to remit these Arrears, had the more reason to take all Legal Advantages for his own Supply. There was one *Marcharius*, who had been Proscribed; probably, for having been one of the *Satellites of Gildo*, and had left his Goods in the hands of divers persons, who concealed them. The Emperor wrote to *Bathanarius*, the *Comes of Africk*; That seeing it had appeared upon Torture, that there were such concealed Goods; if any Concealer would within two Months time produce them, he should be pardoned for what was past; otherwise, his Estate be confiscated, and he himself undergo the pain of Deportation. To prevent the imbezilling of what belonged to his Domain, he now prohibited any *Palatine* Officer belonging to the *Comes Rei Private*, either by himself or any other person, to farm, or hire, any Possessions appertaining to it: as by another Constitution, directed also to *Nestorius*, who now bare that Office; It is forbidden, that they buy any thing belonging to the Domain; as Gold, Silver, Slaves, or the like. And, that the Revenue might come in in convenient time, toward the latter end of the Year, he thought fit to quicken up the Vicars of Dioceffes; on whom (under the *Præfecti*) as he saith, lay the care of levying the whole Collation; and transmitting the Provisions, either to the publick Granaries, or where the Soldiers had want of them. He commands, That they press the Governors of Provinces to the Discharge of their Duties; that every Month they take diligent account, what, or how much, hath been brought in, or transmitted: And, that they animadvert upon such Governors as are found to be negligent of their duty. And, this he seems to have enacted, with design to reinforce the Authority of *Vicars*; against whom the ordinary Judges spurned at this time, and contemned them. *Fulfinian*, yet afterward, did not think fit that they should have such an hand over them; and therefore, this Constitution is not put into his Code.

127. For the Year CCCCII the two Emperors, *Arcadius* and *Honorius*, now, the fourth time, were *Consuls*. *Arcadius* continued at *Constantinople*, and *Honorius* at *Ravenna*; which, now, began to be an Imperial Seat; he having, in a manner, left *Milan*, and here fixed his Abode. And, now, the Laws we meet with, prefentus with the Names of three Emperors: for, in the beginning of this Year, and of *January*, did *Arcadius* give the Stile and Dignity of *Augustus* to his young Son, *Theodosius*; born, as we said, the fore-going Year. The times, now, began to be very ill; Clouds to gather, and Tempests to hover over the Western Parts; and, amongst Arms, Laws were put to silence, to such a measure, that we meet with but two made this Year; or one by each of the Brothers. But, having now got another Colleague, we must take notice, that before his promotion, were several others made by them, now extant: some without Date, or Consulship; and others without the Names of the Persons, to whom they were sent: Of which,

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SECT. I.

it will be convenient, only to mention such as are most remarkable, and best fit our purpose. One of these allows to *Dominators*, the *Proconsul of Africk*, no fewer than four hundred *Apparitors*; by which we may fee the Greatness and Splendor of that Command. Another, one hundred *Cohortales* to the *Presidents of Italy*: the Office of Guardians; except it be of those of their own Body. Another of their Laws gives us to understand the condition of the *Coloni Centisii*, or Husband-men, paying Rent to their Lords; that they were no better than our Villains, once here in *England*; who had their Name from the *Villa*, or Village, which they tilled; as the *Coloni* also theirs, from the tilling of these Grounds or Villages. They declare by that Law, that as those *Coloni* are Free Men in reference to others, to whom they owe no Tribute as Subjects; so, by reason of their obnoxiousness to their Lords, they seem to be bound by a kind of Slavery. The effect thereof was this; That they forbid that such *Coloni* be allowed to sue their Lords; and, as all they have belonging unto them, so, as to be alienated and fold when they please. It had often been formerly removed, that such an one, without content of his Lord, could not alienate his very *Peculium*: and the Laws gave them power of acquiring, but not of alienating any Goods. Seeing then, they were not *Sui Juris*, and acquired what they got for their Masters: *Arcadius* thinks it unreasonable in this Edict, directed to *Nobrius*, that they should be permitted to sue their Persons; yet, if they were over-burthened in their Payments, they had liberty to complain. And, in Criminal Causes, they might accuse them, and vindicate themselves; the Publick it self being concerned in such matters. But such Fugitives they were at this time, that several Laws were made for returning them to their owners. And the *Magesii Militum* were forbidden, as well to receive them into the Army, when Volunteers; as to compel them to the Military Service.

128. *Arcadius* derived an hereditary kindnes for the City of *Constantinople*, from his Father. That *Annona*, or Provision of Bread which had been first given by *Constantine*, *Theodosius* enlarged, when he raised more Buildings, and increased the number of Houses; as we have seen from *Themistius*. The design of them both was, to encourage Inhabitants, and promote the enlargement of it: Yet, as Corruptions fill will be breaking in, upon the most laudable Constitutions; this Bread was transferred upon other persons than House-keepers: which Inconvenience had been seen by *Arcadius* six Years before: And he gave order to *Africanus*, the *Præfect*, to see, that all that had no Houses should be deprived of it, except they would build within six Months. Yet, still, for all this, other sorts of persons drew it to themselves; which now caused the Emperor to appropriate to himself the granting of an Interest in this Provision: And he commands *Clearchus*, the present *Præfect*, that none be suffered to enjoy this privilege, but such as shall obtain it from himself immediately; or else, by Grant from the *Præfect* of the City, confirmed by his Imperial Authority. But we are interrupted. All the discourse at *Constantinople* now was, of *Marich*, the *Goth*, his quitting of the more Eastern Provinces, and drawing down toward the West. He had, now, for a long time, harried the Countries of *Epirus* and *Pannonia*, with other Regions; and his Successors animated him, that, thinking no Enterprize too great for him to undertake, he thought of no less than invading *Italy*; nay, of setting upon, and capturing the Lady and Mistress of the World her self. He told his Men, that it would become them, rather to get Kingdoms of their own, than to serve in the Dominions of others. That *Italy* was near at hand, a Country, not only, full of Wealth and Spoil; but very fit also, wherein to settle and inhabit. That he was resolved to intend it now that it was not at all fortified, or prepared against such an Attempt; and not thence to depart, till he had taken and rifled *Rome*: where innumerable Riches, raked out of the whole World, had, throughout so many Ages, been hoarded up. They, with a great noise, testified their Applause to what he said; and encouraged him to undertake the Expedition: Which, that he might with more Courage do, they chose him, not only their General, but their King; and prepared for the intended March.

129. He resolved to let Summer be past before he would set forward, that he might make War in *Italy* in winter time; the rigour of which he & his *Goths* could well endure, as born in cold and remote parts: But he thought it would go very hard with the *Italians*, if forced to be in the Field, and endure the Hardships of War in that Season. Having got together a sufficient Army, consisting of *Goths*, *Flams*, *Avars*, and other Bar-

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On the other he takes care for the preserving and paying the publick Revenue

Arcadius gives the Title of Emperor to his young Son Theodosius.

Arcadius reforms the Abuse in the Bread given to Constantinople.

Marich resolved to march for Italy.

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SECT. I. barous Nations, he quitted the lower *Pannonia*, and marched strait into the upper Province, as far as *Noricum*, and the *Alpes*; which he easily made himself Master of; for, thence he drove *Etius*, who commanded those Passages: And understanding that *Honorius*, the Emperor, was in *Liguria*, he passed through the Forest of *Tridentum*, or *Trent*; and toward the end of *August*, arrived in *Venetia*: Directing his Course toward *Aldua*, he easily subdued the Cities of that Quarter. Having passed the River by a Bridge, with which he left a sufficient Power of Men to guard it, he marched for *Liguria*; and halted to the River *Padus*, to come as speedily as might be, to *Hasta*; where he heard that *Honorius*, at present, lay.

A. D.
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SECT. II.

The Second Step to the Ruin of the Empire.

From the first Invasion of Italy, By the Goths; to the first taking of Rome by that Barbarous People.

Containing the space of eight Years.

UPON the Rumour that the people feared with Confection. THE Rumour of the Invasion of *Italy*, though but yet designed, being spread abroad; incredible it is, with what Confection, the minds of all Men there, were seized; as not accustomed to such Attempts. And, as fear is always ingenious, if not to invent, yet to patronize all pretended Omens; all strange things that of late time had happened, were very fadly rehearsed in discourse, by one Neighbour to another. One talked of several Monsters newly produced to the view and admiration of the World: and, according to his Ethnick Religion, discoursed of the Thunders lately heard, of what the *Sibyl-line* Prophecies foretold to happen about this time; and what ill luck the Birds by their inauspicate Voices and Gestures, did portend. Others, more Philosophically, argued the Empire to be in extreme danger, from the frequent passions of the Moon; which the Vulgar believed to proceed from other Causes, than the interposition of the Earth betwixt her and the Sun. They related, what strange Hailstones, of an unusual bigness they had seen: told how Bees, at an unreasonable time, attempted to swarm; and called to mind, how a Comet of extraordinary bigness and shape had lately appeared. But, above all, the strange fight of two Wolves most affected them: which, when the Emperor was riding abroad, presented themselves to his view, and had the courage to set upon the Company. Being received upon the points of Spears and Swords, they were easily dispatched; but when their bellies were opened, there appeared two hands of a Man; in one a Right, and in the other a Left; bloody, and with the fingers stretched out. This Prodigy they concluded, did threaten *Rome*, the Founder whereof was nourished by a Shee Wolf, though the Poet applies it to the Victory afterward obtained. They now began, he saith, to reckon and cast up the Age of the City; and they cut off part of the time, and anticipated the term of twelve hundred Years predicted by the Augurs. This, indeed, was but the MCLV year of the City; but the term now began to approach; and we shall find, that the guess happened to be very unlucky. But, whereas *Claudian* speaks, amongst other ill-boding things, of frequent Eclipses of the Moon; this Luminary, indeed, this year, was twice eclipsed, viz. on the first day of *June*, and on the twenty sixth of *November* following.

2. To the terrors that arose from such like things, this real disadvantage was added; that the people inhabiting *Rhetia*, now, either excited by the *Goths*, or led thereto by their own inclination and hopes, revolted. *Stilicho*, to obviate all these

SECT. 2. mischief, had caused the Cities to be well fortified with Walls; Especially *Rome*, of which is still extant an old Inscription, in a Stone, erected to the memory of *Arcadius* and *Honorius*, for repairing the Walls, Gates and Towers of the Eternal City, with the Expectation of an Immense Quantity of Rubbish, from the Suggestion of the most Famous *Vidus* apud *Ravennam* ad *Alam* 70. *Stilicho*, *Miles & Magister utriusque Militie*: This was done by the care of *A. Macrobium Longinianum*, Prefect of the City. *Stilicho* also took care for reducing the *Rhetians*. But, when *Alarich* was once entered *Italy*, *Rome* seemed to the Inhabitants to be already taken: the noise and terror flew as far as from *Genoa*, to *Brissac*; and these, though most remote, seemed to tremble. The very *Ich* of Covetousness now seemed to abate, when the greater care of the very life and subsistence it self, was now most prevalent. They carried their Wealth A-board: The Caves in the remotest Rocks seemed, now, the best places of Retirement. *Stilicho*, and other Islands, they thought of; but *Stilicho* was thought to be too near at hand: and, as the Poet expresseth it, it withheld it self, if Nature would bear it, more remote; and removed as far as into the *Ionian* Sea. In sum, such as lived in the more remote parts of *Italy*, thought of flying into *Stilicho*, *Sardinia*, *Corfu*, or other places of Retirement, which the *Mediterranean* afforded: And such as dwelt in *Venetia*, and near to the *Adriatic*; if necessity should compel them, resolved to evade the Storm, by betaking themselves into the little Islands of that Gulf. And the very Court of *Honorius* was in no less fear and deparation, when they perceived, that to them the *Barbarian* directed his Course; urging and contending, that the safest place they could fly to, was *Gall*. Indeed, the Event was answerable fully, to the horror that seized on their minds: for, though the *Barbarian*, at his Entrance, received some Rebuke; yet *Italy*, which for so many Ages had been in Repose, and a Terror to all other Countries, from this time, forward, became the Subject of all sorts of Calamities, and never was at quiet; but, for very many years, afforded Examples of strange and frequent Revolutions, of the Vicissitude and Incontinuity of Humane Affairs.

3. The only man that gave any hopes of Comfort, and proved another *Stator* to the *Romans*, was *Stilicho*: who, if you believe *Claudian*, also proved both Prophet and Captain, as to their preservation from this one shock, so much apprehended. He flew them, by the example of governing a Ship in a Tempest, that it was not now time to complain; and, like Women, make a noise; with which the Wind and Seas would not at all be appeased: but every one was to lay his hand to the Sails, to contribute to the well steering and guiding of the Ship; and the emptying out of those Waves it had received through Leaks. He told them, there was no such cause for despair; if, while the *Roman* Forces were employed in *Rhetia*, the *Goths* had perditionably broken into the Country; having learnt their way over the *Alpes* in the late Rebellious times; wherein, indeed, *Alarich* served *Theodosius* with a Band of his Men, against *Eugenius*: And, as the Poet truly observes, the discord of the *Romans*, gave occasion to the War with the *Barbarians*. He further encouraged them, by the Fortune and Success, which ever had followed *Italy*, against the Attempts of Foreigners; and convinced them, that he, in the capacity he stood, of Father, and Father in Law, had as fair a stake to lose as any of them: And, perceiving it was so by the Emperor his continuing with them, as it were an Hostage of Fate, they were the more satisfied. For, *Stilicho*, leaving *Honorius* and his Courtiers, instructed how best to make their Defence, took his way for *Rhetia*; and passing, by Boat, the Lake *Larius*, in the hardest Winter went over the Mountains, covered with Snow and Ice and easily, by the awe of his Presence and Voice, reduced the Revolters to their former Obedience: who, at the sight of him, were no other-wise affected, than a company of Servants are wont to be at their Master's returning: Who, imagining him dead, or at a distance, were up in all sorts of Jollity and Divertisements, and throwing the House out at the Windows. He convinced them what folly it was to take advantage at the War now made by the *Goths*; as if *Rome* had not both Power, and Encouragement enough from former Experience, to suppress two Enemies at the same time. And, he instanced in King *Philip*; who, out of vain hope, fell out with the *Romans*: at such time as they were deeply engaged with *Hannibal*; and paid dearly for this Experience, that *Powerful* Princes and States are not to be irritated and provoked, though they be in present trouble.

4. Having easily brought them off by such persuasions, he then set himself to the raising of a convenient Army; which, some say, amounted to about thirty five thousand Men. This number seemed to him sufficient, as being much of the same opinion with *Alexander*; who, when he might have raised out of *Macedonia*, *Illyri-*

SECT. 2. 8. With his Death, the Horle he commanded was so disorderd, that they turned Tail and ran away; and the whole Wing might have miscarried, had not *Stilicho* come seasonably in with the Legions. He cauled the Horle to rally. A bloody Fight was renewed with great Animosity and Violence on both sides. A bloody Battle had not been fought for many Years. The Soldier being so thirty after Blood, it we believe *Claudian*, that he despised that great Wealth which he found in the Enemies Camp; so intent was he upon the pursuit. But here were recovered many Captives, and the Poet tells us that the Purple Robes of *Valens* were found amongst their Treasure, with abundance of Plate which the *Goths* had plundered in their Ranlacking of the rich Cities of *Greece*. For after a grievous Contest they gave Ground, and being utterly routed, great slaughter was made of them though they dispersed themselves many Waies; and this one Day, as the Poet sings, made amends for what Mischief the *Romans* had endured for thirty Years. *Silicho* might have intercepted the Flight of the *Goths*, and as the Fame went, have destroyed *Marich*; but whether he suffered him to live and be reserved, for some use he intended to make of him afterwards; or for that he would not make them desperate, he suffered them to escape, and making an Agreement with them, commanded they should depart *Italy*. *Marich* obeyed so far as to draw off his Men, now reduced to the half of their former number, toward *Perona*, but it seems would stir no farther, but brake the Agreement, by which he was, as some say, to retire into *Gall*, and perfidiously made preparations for another Fight. *Silicho* was not at great distance, being now more willing to engage than formerly, because the Enemy was drawn off farther from *Rome*, and the River *Padus* was betwixt them. And engage they did in another bloody Battle, wherein the *Romans* had as great Advantage as before they had had either at *Pollentia* or *Hastia*. *Marich* narrowly elcaped by the swiftness of his Horle, and with the remainder of his Army fled to the Mountains, which he attempted to pass for *Rhettia* or *Gall*. But, *Silicho* there opposed himself, and kept him in; so long, till he and his *Goths* were so much distressed that after many opprobrious Words, most of his Men forsook him, some making their escape, and others going over to the *Romans*. He perceiving himself thus forsaken, before it should be too late, withdrew himself from the Hill and retired beyond the *Alpes*, notwithstanding *Silicho* was still at his Heels as *Claudian* Writes; who though he flatters him as his great Patron, yet was sensible enough of the Suspicion he lay under, of willfully letting *Marich* escape. The greatest account we have of this first Invasion is from him; *Zosimus*, so careful an Historian he was, not making the least mention of it.

A second is considerable as that.

Marich makes Laws against Defectors.

A. D.

403.

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SECT. 2. their Power such Soldiers as were newly raised, in case they made any escape. For the course was, that if a *Tiro* or newly raised Soldier ran away within a Year, he that sent him should pay the value in Money; and now if such were killed by the Provincials, they that found them should endure the loss; and besides, these young men could not so properly be laid yet to have deserted the Service, as not to have come up to it. In Conclusion he will have the *Primates* of all Cities, Villages, and Castles, to know, that Concealers ought to be proceeded against according to the Laws made by his Father.

Prohibes Bakers to marry with other Persons.

10. What reason or occasion was given for making these Laws, is more evident, than that which moved *Honorius*, this Year to direct another to *Valis* the *Præfētus Annone* concerning the marriages of *Bakers*. By this he ordains that it shall be unlawful for any Baker and his Children to marry with any private Persons, and particularly with Players, or the *Aurige* or Chariot drivers in the *Circenian Games*; although the Bakers themselves should consent, nay though the same Recript might be surreptitiously obtained. If any should transgress this Order, he commands that he be whipped, and after that undergo the Pain of Deportation; and if the Office of the *Præfēt* be not vigilant to prevent it, for every Family, it shall incur a Fine of ten Pounds of Gold. And all that marry the Daughters of Bakers shall immediately be appropriated to that Body. By private Persons are meant, all that were not of that Corporation, and of these, the Stage Players and Chariot-drivers are particularly excepted, who either lived near to the Bakers in the same Region of the City, or else by their Arts had such peculiar ways of Wooing and Marriage, as was not consistent with the publique safety. To be sure the Chariot-drivers were in a very ill Name, being suspected as guilty of dangerous contrivances for bringing about their ends, and particularly of Magic, as we have seen heretofore. This Law concerned the Bakers, the Players and the Chariot-drivers of *Rome*, who this Year had the more to do, by reason of *Honorius* his going thither in Person after the Defeat of *Marich* and his *Goths*. The Senate and People were inflamed with a desire of seeing him; and had often requested that he would do them the Honour; but either for that he did not like the place, or for other reasons, he had refused. After the Defeat of *Gildo* they expected in vain that he would have entered *Rome* in Triumph, but now that so great a Victory was obtained over the *Goths*, he could not resist their Importunity, but consent to give them the satisfaction of once more beholding such a solemnity. And from *Revenna* he departed toward the latter end of the Year, and by the way of the *Adriatick Shore* took his Journey toward the City by *Favium Fortunæ*, *Metaurus*, *Petra Pertusa*, *Forum Delabrum*, the River *Clitumnus* (famous for a brood of white Horses, which were much made use of in Triumphs and publique Entries) and *Narnia* (so named from the River *Ner* which ran below it into *Tiber*) a City placed upon the Mountains on the *Via Flaminia*, where, the report was, that the fall of Rain was wont to raise a Dust. At this Entry into *Rome* he was received with triumphal Arches, a prospect of new Walls, and elegant Turrets. But whereas at such triumphal Solemnities, it was the custom for the Senate and those of *Patritian* Blood to greet the Emperor and walk before his Chariot, he forbade any such Ceremony to be used towards him.

He enters Rome in Triumph.

And his sixth Consulship.

He permits the Secular Games to be Celebrated.

11. So we are brought by *Honorius* to *Rome*, and to his sixth Consulship, which here he entered, having *Ariftenus* for his Colleague, in the CCCCIV Year of our Lord. The People were overjoyed to behold him, and especially upon such an occasion. Being elevated also by the late Victory over *Marich*, they thought themselves of their old *Secular Games*, which had been neglected since the Days of *Constantine*; and the *Pagani* by their Importunity prevailed that now they might be Celebrated, though it was not at the due time. For these Games were, as we have formerly shewn, to be Celebrated at every hundred and tenth Year. It's true, *Domitian* broke the Rule, and anticipated in six Years; for he Celebrated them in the eight hundred forty first Year of the City; whereas he ought to have deferred them to the forty seventh. But *Severus* set them out right again, Celebrating them not till the nine hundred fifty seventh Year of the City, or of our Lord the CCCCIV: from which, two hundred intervened to the sixth Consulship of *Honorius*, and so those *Secular Games* which should not have been observed but every hundred and tenth Year, were confounded with the *Cemeteries*; but glad were the superstitious *Romans* to have them any time or way. For *Honorius*, it's said, would not permit any *Pagan Rites* to be observed, only the Games went to be had in the Theatre and in the Cirque, to which *Claudian* adds

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Secn. 2.

the Exercise of the Military Men in the *Campus Martius*. Nay it is believed that this very Year he took away the cruel Combates of the *Gladiators*; with which all good naured Persons could not but be offended. He continued at *Rome*, till August at least, as appears from five Constitutions which bare Date from this City; and this Constitutions being directed to *Hadrian* the *Pacificus Prætor*. One of these relates to War, the other to the time of Peace, declaring that no Person or Persons whatever shall be executed from Contributing to the Baking of the *Buccellatum* or Bisket for Soldiers; and the removal of the military *Arms*, or Provisions, from place to place. "No Execution shall Serve, nor not the Domaine or Patrimony of the Emperor himself. If the *Baily* or Officer of any Lord neglected to do this Duty, he must be grievously punished, and the Lord himself, if knowing, pay the forefouled of what is due from his Land." For this was the Burthen of the Soile, and paid in Money by the *Provincials*; the Bread it self or Bisket, being Baked by several Bodies of Bakers defined to this Work in the Provinces, who had their own *Propositi* or Overfers.

Favours the
Dissolution of
Rome.

For a Copy, apply to
 Publisher,

Honorius in
vours to r
ver the E
of *Guido*.

A. D.
404.

L. 2. De excoſſi-
one & translati-
one Annenarum
Cod. To. lib. 7. tit.
5. & L. 2. Cod.
Juſt. tod. tit.
Dat. 8. Cal. Apr.
Romæ.

L.4. De Decuri-
is urbis Romæ.
Cod. Th. & L.2.
Cod. Just. tod.
tit. Dat. 8. Id.
Jul.

L. 5. De Fabrica
lib. 9. Cod. Th. lib.
10. tit. 22. Dat.
3. Cal. Aug. Ab.
est a Cod. Just.

A. D.
405.

Stilichone 2,
& Anthemi
Coff.

L. 19. De boni
Prescrip Cod.
Th. Dat. 12. 64.
Maj.

CHAP. III.

Sec. 2.

He restores
Appeals to the
Proconsul of
Africa.

**Arcadius al-
lows moderate
Interest to Sen-
ators.**

Forbids his
Palaces to be
taken up.

my; either to conceal their Goods or Lands, or to seize on them, as by public Authority; which was constrained, afterward, to force them to shew their Titles. But, in such disorder did *Africk* still continue, that, to redress the Inconveniences thereof, the Emperor, in whose District it lay, was well nigh put to as much trouble, as for all the other Provinces belonging to him. Yet, had the *Proconsul* thereof power of Appeal from other ordinary Judges; and to determine of matters, *Vice Sacra*, as they termed it, since the beginning of the Reign of *Constantine*; though, before, as well he, as the rest, were appealed from, to the *Præfectus* of the City. *Honorius*, now, to save himself the trouble, as well as Appellants, the Labour and Charge; declared to *Diotimus*, the present *Proconsul*, That he would have this custom observed, which now he terms ancient: Adding wishal, that he should receive Appeals from the *Gentiles*, or their Commanders; who, being raised out of Barbarous Nations, watched at the Limits of the Empire; which was a singular Prerogative.

14. *Acraëdis* this year, from *Constantinople*, took a Progress into *Bithynia* and *Galacia*. At *Nice*, in *Bithynia*, we find him at the beginning of *June*; by the date of a Law, which there he made concerning *Ulfury*. It must be known, that, by virtue of some Constitution, not now extant, in those days it had been unlawful for Senators to put Money to Interest. And indeed, during the *Roman* Commonwealth, as *Gothofred* observes, by how much persons were elevated above the ordinary condition, and more able to tyrannize over their Debtors; by so much the more were they restrained, in the Exercise of *Ulfury*, by the *Laws*; yet, to evade these *Laws*, when it was unlawful for Senators to take Interest, they would receive Gifts or Rewards; which, possibly, might amount to as much as the Interest it self. And therefore, *Alexander der Severus*, permitting a third part to be taken by other persons, allowed Senators to receive one half of the third part, or two in the hundred. But afterwards, again, it became unlawful to them to receive any at all; until, at last, it seemed unreasonable, that young Senators, or those that were not of Age, should be restrained from so doing; both because their young years were wont to be favoured, and they could not make use of any power to terrifie and oppress their Debtors. Therefore did *Acraëdis*, seven years and an half ago, declare to *Eutychianus*, then *Prefect*. That Interest, which was stipulated and contracted for, should be paid them, as well as the Principal. And now, this Year, he thought fit to take off the Restraint laid upon all Senators, so far as, by an Edict inscribed to *Opratus*, the *Prefect* of *Constantinople*, he gave leave to them to receive the half of the hundred by the Month; or, as we say, fix in the hundred. For, as we have formerly shewn, the *Romans* paid Interest every Month; and the hundredth part, or one in the hundred: so that, at that rate, one hundred of our pounds must have brought in one pound every Month, or twelve by the Year. This was ordinarily allowed by the *Roman* *Laws* to other persons, whatever Form particular Prince might do. But *Acraëdis* thought fit to limit Senators to one half.

15. From *Nyfe*, he removed to *Ancyra*, in *Galacia*: where we find him in the beginning of *July*. In his Progress, he took notice how his Houles or Palaces in the Country were abused, by the frequent use which the ordinary Judges of Provinces, and others, made of them in their Travels and Removals. To lignifie his displeasure hereat, he commanded *Anthemius*, now *Præficus Prætorio*, that none should have leave to continue within his Palaces in any City and Manſion ſo, but that the Governors of Provinces, and Vicars of Dioceſſes, ſhould take care, that none ſupernat that liberty in their Journeys; as alſo, that they ſell not to decay, for want of Repairs. Theſe things, if they did not obſerve, the *Vicar* ſhould incur a Mulct of thirty, and the *Conſulares and Præſides*, of twenty pounds of Gold; and their Offices forfeit as much: Neither ſhould the *Cariæſe* (who were alſo to look to the Palaces) go unpuniſhed. Such as were ſo bold, as to make uſe of the Houles; if they were of Quality, and had Eſtates, were to be fined in twenty five pounds of Gold: If they had mean Fortunes; then, to be baniſhed. And, if they themſelves came not there; to be ſure, their Houſes were not to come near his Stables. Thus we ſee, that throughout the Provinces, both in Cities and Manſions, the Emperors had Palaces; and that, upon the *Roman* High Ways, for their convenience of viſiting the ſeveral Countries. In the Eaſtern Empire, where this Law was made; beſides thoſe of *Conſtantinople*, there was that of *Anioch*; and one at *Daphne*, in that plentiful ſhore of *ſyria*; beſides another at *Heraclea*, in *Thrace*. In the Weſt; the Emperor had one here at *Tork*, of which, *Hiſtory* makes mention: where was alſo, a *Prætorium*, and a Temple of *Bellona*. There

A. D.
406.

L. 6^e. de Appel-
lat. &c. Cod. Ib.
Dat. 11. Cal.
Rav. Abist. à
Cod. Fast.

LL 3, 4. de test-
rès, Cod. Tb lib.
2. tit. 33. Dat.
prie. Id. Jan.
Abst. Cod. Fast.

L.1. Ne quis in
Palatiis mani-
at. Cod. To. lib. 7
tit. 10. Dat. 6
Id. Jul.

Vide Golb, *Cont.*
in b. l.

Sect. 2.

was one at *Milan*, another at *Narbon*, and a third at *Triers*; besides one at *Potobio*, in *Noricum*. This Law is directed to *Anthemius*; who, from *Magister Officiorum* was advanced, this Year, both to be *Consul* and *Præfatus Prætorio*; in which Office he continued many Years: a Man generally beloved for his Abilities, and great Services performed to the State; as we may see hereafter.

Great Disorders in his Court, according to Zosimus.

A Fire in Constantinople.

The Scari make Deprecations.

16. But, about this time, *Zosimus* informeth us; that in the Court of *Arcadius*, Calumniators abounded more than ever; still hanging upon the Palatine Eunuchs: or if any rich Man was dead, they spake of his Estate, as if he had left no Children. Then were the Receipts of the Emperor issued forth; whereby the Patrimony of *Titus* was assigned to *Sempronius*; and Inheritances were passed over to such as begged them, while the Children food by, and, with Groans, invoked the Ghosts of their Parents. In conclusion, nothing was transacted, that did not fill all places with Lamentations, and brought not some mischief to the Inhabitants. For, the Prince himself was extremely filly; his Wife insolent above Nature, and exposed to the Avarice of the Eunuchs, and of her Women, who governed her; so that all Men were rendered miserable, by the Courts they took: and, to modest and civil persons, nothing, than death, was more desirable. And, as if this had not been enough, another danger now threatened *Constantinople*, greater than all others, upon this occasion. *Fohn* being returned out of Banishment, and, in his Sermons, stirring up the people against the Emperors; when he saw that he was deprived of his Bishoprick, and expelled the City; took Ship, and went his way. Those of his Party having this in their design, that none other should be Bishop; resolved, straight to burn the City. They let fire to the Church in the night, by the darkness whereof they escaped undisturbed; and, in the morning, presented the Citizens with a dismal sight: For, all the Church was burnt; and, together with it, the adjoining Buildings, as the Wind roared. The Fire seized also on the House where the Senate was wont to be assembled; a magnificent and elegant piece of Architecture, placed before the Palace. For, it was adorned with Majestic Statues; and such coloured Marbles, as, our Writer faith, in his time, were not to be found. And, it was reported (he adds) that those Images which were dedicated to the Muses at *Helicon*; and, in the days of *Constantine*, suffered the force of that Sacrilege which was committed against all things; being here erected, perished in the flames: a thing portending that Ignorance, which was to invade all sorts of Men. But, a miracle, you must know, happened at this time, which, he thinks, is by no means to be passed over in silence. The Temple of the Senate, had before the Gates, the Images of *Jupiter* and *Minerva*, standing upon Bases of Stone, as they did in the time of the Writer: the one being reported to represent *Jupiter* of *Dodona*; and the other, the same with that which was consecrated at *Lindus*. Now, though all the Temple was consumed, the Lead melted, and the Stones and Rubbish fell down upon these Statues; yet, when no other was expected, but that they had run all the same fortune; the Rubbish being removed, they were found safe and found: which made the more polite sort to conceive hope, that these Gods would protect the City. But, let this happen, faith he, as it pleaseth the Divinity.

17. Now, all men bewailing the case of the City; and finding no other cause for it, than the shadow of the Afs, as the Proverb was, they, about the Emperor, began to think of making up the Breach. But their thoughts were diverted by ill News; that a great multitude of the *Scari*, inhabiting the inaccessible places of the Mountain *Taurus*, above *Pamphylia* and *Cilicia*; being divided into several Troops of Rovers, had fallen down upon the neighbouring Country. They could not attack the fortified Towns, but they over-ran the Villages that had no Walls: And their Access was the easier, because this Region, during the late Motions of *Trigild*, had been taken by the Enemy. To oppose them, was sent one *Arbasacius*, with hopes that he would relieve *Pamphilia*; and he found them retired again into the Mountains, whither he pursued them; burnt many of their Villages, and killed no small number of them; and might have quite subdued them, and provided entirely for the security of their Neighbours, had he not given himself up to filthy delights and pleasures, whereby he remitted much of his Vigour; and putting out his hands to lay hold on Money, preferred Riches before the publick Good. For this Prevarication, being sent for to Court, he expected no other than to be called to Account: but, by giving the Emperors part of what he had got from the *Scari*, he escaped all questions; and spent the rest in the delights of the City. As for the *Scari*, they now robbed clandestinely; nor daring openly to fall upon the adjacent Countries. Thus writeth *Zosimus*, concerning the Misgovernment at *Constantinople*,

12

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Vide Prolegomena, Cod. Theod. a p. 800.

medicinali ai-
quid ad the-
maximam liquen-
tem, Scilicet, Cod.
Theod. a p. 800.

Horatius re-
moves Abules
in Shipping.

Sect. 2.

in those days, and the ill effects thereof. Concerning what he saith of Calumniators, and begging of Estates, we find a Law, made this Year, about the same Subject; but, with design to oppose the practice, which, possibly, now was grown too high and intolerable, that the Peace might have been endangered, if some foot had not been put unto it. But, hereby confirming a Sanction of the famous Prince *Constantine*, as he calls him, He forbids that any Accusers be heard, or that any beg such Possessions as now are in private hands; and belonged, either to the Patrimony, to the Commonwealth, or to the Temples: and this, under pain of being punished as Sacrilegious Persons. From the time of *Constantine*, these several sorts of Lands had been given and sold by Princes, and seized also sometimes without publick Authority.

How Natural Children to be provided for.

How Appeals from Arbitrators to be managed.

Horatius re-
moves Abules
in Shipping.

In the Collec-
tions of the
Revenue.

18. There was a Controversie at this time concerning the Provision that was to be made for Bastards or Natural Children; some leaving them so much, that having Legitimate Sons or Daughters besides, they carried away from them, often, a great part of their Inheritance. To give Rule herein, he ordained, by a Rescript directed to *Anthemius*, the *Præfatus*; that, He who had a Mother, or Legitimate Children or Grand-children, one or more, should not leave above a twelfth part of his Estate to his Natural Children, and their Mother; or half so much to his Concubine, by which he had no Children. The *Præfatus Prætorio* having so much business, in these times, upon their hands, besides the ordinary Governors of Provinces, were wont to assign Judges and Arbitrators, for hearing certain Causes, and taking up some Differences; from which Judges and Arbitrators, Appeal lay again to them the *Præfatus*. But, it was questioned, what time should be allowed, both for the interposing, and repairing thereof? In Answer to which, *Arcadius* now told *Anthemius*, herein concerned; that, If these Judges were present in the City, or some Neighbouring Province; that then the Parties should have two months to prosecute, and thirty days to repair their Appeals: But if they were in remote Provinces, six months should be allowed for the one, and three for the other; as the custom was, of Appeals from the Governors of Provinces.

19. The year following, or the GCCCVI of our Lord, had *Arcadius Augustus* the sixth time, and *Anicius Probus*, for *Consuls*. *Longinianus*; this year, was *Præfatus Prætorio* of *Italy*; to whom, some Edicts we find directed, under this Title; though he had, some years before, been *Comes S. Largitionum*; as appears, both from the Code of *Theodosius*, and the Epistles written to him from *Symmachus*. The first thing we meet with, given him in charge, after his Promotion, was, to remove an Abuse in Shipping; which *Arcadius*, six years before, had endeavoured to reform in *Egypt*. For *Honorius* tells him, that Many persons in these days, thought to defend their Vessels by the Names and Titles of divers Persons: To obviate which Fraud, he commands; that, If any, to avoid the publick Necessity, shall presume to affix such a Title; the Ship, or Vessel on which it is affixed, shall be confiscated. For, as he doth not hinder, he saith, private persons from having Vessels; so he will not permit any fraudulent practices: For as much as it is fitting, that, if Necessity urge, all, in common, contribute to the publick Utility; and, to the Transportation (of Corn and Provision he means) without any Privilege of Dignity. In conclusion, he gives order, that, if this Abuse be not removed in thirty days, all such Ships shall be taken by their Owners. Though the City of *Rome* food in as much need as *Constantinople*, to have a certain method of bringing Provisions; yet, *Honorius* was more mild than his Brother, upon the like occasion; in, not only granting the space of thirty days, to retract what had been done amiss; but, in not inflicting punishment upon such Noble Men as granted such Protections; by giving leave to make use of their Names in discourse, or affixing them on the Ships themselves: for, in old time, it was the custom to fix these Titles, not only, to Possessions on Lands; but also, to those that floated on the Water; besides the Sign, or ordinary Badge, which, sometimes was *Castor* and *Pollux*; as we learn from that wherein *St. Paul* failed. But, this Emperor had made so many severe Laws, concerning this matter, against the *Navicularii*, and others; that, as to this point, he might be excused, or for other reasons, well known to those upon the place. This was dated from *Ravenna*, where *Honorius* made his Abode this year; and whence, about a month after, he gave fresh Orders to the same *Longinianus*, to call to Account the Collectors of the Revenue; against whom he had received Information, that several who had been employed in the Provinces for the last five years, had nothing at all contributed,

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405.

L. 24. de Testi-
bus lib. 1.
Cod. Theod. a p. 800.

L. 2. de Nisi-
bus lib. 1.
Cod. Theod. a p. 800.

L. 6. de Appli-
catione lib. 1.
Cod. Theod. a p. 800.

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406.

Arcadius A. G.
Probo

Multis rebus se-
as diversorum
nominalibus &
titulis taceant,
Cod. Theod. a p. 800.

L. 1. de Confis-
sione lib. 1.
Cod. Theod. a p. 800.

Secl. 2. be repaired, it may be free to remove any Image of himself, or his Predecessors, without consulting him; so it be done with reverence, and the Statue again replaced, as it was before, after the finishing of the Work. Further, to promote the rebuilding of the publick places, and to prevent Fires for the time to come; He prohibited Our-shots and Terraces; commanded the Stairs, leading to the *Porticus*, to be made larger, and of Stone; that no private Buildings should lean upon the publick, but be distant from them fifteen Feet; upon pain of having them demolished, if any should afterward be found to have raised them within that compass.

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406.

L. 45. 46. c. 1. § 1. 1. 1.

A Grievance arising from the Estates of the Emperor's Daughters, removed.

24. At the end of the year, complaint was brought, that the Country, in several places was oppressed; by reason, that the Farmers, and Managers of the Land belonging to the Emperors Daughters, pleaded privilege more than they ought to do, from several burthens; which therefore, lay heavier upon the backs of their Neighbours. For, we must know that, not only the Domain, or Patrimony of the Prince himself; but also, the Houses and Lands belonging to his Children, ordinarily excused their Occupiers from Taxes and Tributes; and, under pretence hereof many escaped scotfree, who ought to have contributed their Shares to the publick Service. To avoid this Inconvenience, he commands *Anthemius*; that in all Provinces, where his most Noble Daughters have Houses or Estates; the number, or quantity, of their Lands shall be entered and registred before the Governors, in the presence of the *Consules* and principal *Decuriones*; who, at their peril, are to see to the equal distribution of the Tax: and shall receive Breives, or Terriers of these Lands: and, by comparing them with their Books of Taxes, make a Judgment, what, and what not, are to be excused. By this Law we see what Immunities the Imperial Families enjoyed; which they in *France*, draw into example, even, as to the Officers belonging to that King's Children, and the Queen Mother, or Dowager there:

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407.Honorius, 7.
Theodosius, 2.
A. A. Conf.

25. In the year CCCCVII. *Honorius Augustus* the seventh, and *Theodosius Augustus* the second time, bore the Title of *Consul*. *Arcadius* had his Residence this year at *Constantinople*; and *Honorius* was at *Rome*. Enquiring now, for Materials to compose our Intelligence, and taking a survey of the Provinces; we find a sort of Inmates in *Gall*; some that made bold to enter, without asking leave of the right Inhabitants. One *Godigisil*, King of the *Pandals*, who inhabited the part of *Scythia*, lying upon the Lake of *Mæotis*, being provoked by the Example of *Radagaisus*; when he knew that he gave *Honorius* enough to do in *Italy*, resolved to invade *Gall*; which he thought more easily to subdue than that, because of the awe and encouragement of the Emperor's presence in it. Departing out of *Scythia*, with his *Pandals* and *Alans*; out of *Sarmatia* he took some of the *Quadi*, and other *Pandals*, which had there been placed by *Constantine*. Then, passing the *Danube*, he entered *Germany*; and thence, either by fear, or hope of Booty, excited several people to join with him; as, the *Marcomans*, *Herni*, *Turcilingi*, *Suevi*, *Alamanni*, *Saxons* and *Burgundians*. With whom he hastened to the *Rhine*. There the *Franks* made some opposition; either out of a fence of the Faith they had given to *Stilicho*, by virtue of a late League and Alliance; or, for that they were unwilling, that the Province, of which they hoped to be Masters themselves, should be over-run by so numerous an Enemy. But they, being overpowered by numbers, were forced to forbear: And so *Godigisil*, with his Vandals, passed over into *Gall*, the last day of the last year; or, on the Eve of that New Years Day, wherein *Honorius* the seventh, and his Nephew *Theodosius* the second time, took the Ensigns of the Consulship. They presently fell upon the adjoining Countries, and miserably wasted them; viz. *Germania Prima*, and *Belgica Secunda*; and, notwithstanding whatever the Officers of *Honorius* could attempt, proceeded in their barbarous fury. *Magontiacum*, or *Mentz*, they rased; many thousands of the Inhabitants being murdered in the Church: And *Rheims*, *Amiens*, *Tournay*, and other Cities, fared very little better; being rifled, and other ways used, at pleasure. *Orosius* writes, that these Nations of *Alans*, *Suevi* and *Pandals*, with many others, being excited by *Stilicho*, defeated the *Franks*, passed the *Rhine*, invaded *Gall*; and, with a direct and violent Course, pierced as far as the *Pyreneans*: By which being stopped in their Career, they poured themselves back upon the Neighbouring Provinces.

26. While they in this manner raged up and down the Provinces of *Gall*, in *Britain*, he adds, one *Gratian*, a *Municip* of the Country, was made Tyrant of the Island; and shortly after slain. In his room one *Constantine* from the mean-
est

Secl. 2.

est Employment in the Army was placed; being chosen meerly for the hope of his name, without the least merit; who presently after his usurpation passed over into *Gall*. The truth is, the *Roman* Empire now decaying, and Barbarous Nations roving every where up and down throughout the Continent, the Armies in this Island fearing, for all the water that flowed betwixt them, that the flame of their Neighbours burning Houles might reach over, and take hold of their Habitations; that they might have some General, or Sovereign Commander, if need were, to repel the *Barbarians*, betook themselves to the election of Emperours. First, they placed one *Mark* in the Imperial Seat; and him for a time they obeyed, as in those parts having the chief Command. But afterward having made him away, because he did not in his conduct of Affairs, answer their expectations; they set up one *Gratian*, a Countryman of their own; they crowned him, invested him with an Imperial Robe; and dutifully attended upon him as their Prince: yet upon a dislike, at the end of four Months, they deprived him also of this his Empire; took away his life, and made over the Sovereignty to one *Constantine*, a Soldier of the meanest condition, only because his name imported, as they thought, prosperity and all good success. For they conceived hope, that he by that fortunate name would constantly and fortunately govern the Empire, and overcome all its Enemies, as *Constantine* the Great had done, who in *Britain* had been advanced to the Imperial Dignity. This *Constantine* passing over into *Gall*, carried over with him the Flower of the *British* Youth, and so utterly exhausted that remainder of Military Force which had been left by *Maximus*, in the Island; which now enervated of its strength, fell into such inconveniences, as in a small time procured the Destruction of the Inhabitants it then nourished; which it changed for other Lords.

Constantine set up for Emperor here, in Britain.

27. *Constantine* putting to Sea from *Britain*, made *Fulfinian* and *Nevoigastus* Commanders over the *Celtick* Soldiers; and taking easily the City of *Bologne*, as easily induced the *Roman* Forces in all Countries, to join with him. In the mean time the *Pandals*, at a farther distance, wasted the parts that lay upon the *Rhine*, the violence of whom *Limenius* the *Præfectus Prætorio* and *Cariobaudes* the *Magister Militum* not able to sustain, at least to they imagining, fled into *Italy*, and found *Honorius* at *Rome*, whither *Stilicho* also about this time went to consult him. For, as *Zosimus* tells the Story, *Stilicho* having found that the Ministers of *Arcadius* were his great Enemies, and bent to do him mischief, purposed to send *Alarich* into the Bowels of that part of the Empire, and draw over to *Honorius* the Cities of *Illyricum*. For this purpose he made an agreement with *Alarich*, who expected when notice should be given him to make it good; but *Stilicho* was diverted by the invasion that *Radagaisus* made into *Italy*. Having defeated the *Barbarians*, he returned with great reputation to *Ravenna*, the Metropolis of *Flaminia*, this Writer tells us, an ancient City and Colony of the *Thessalians*, being called *Rhene*, because flown about with water, and not because it was built by *Remus* the Brother of *Romulus*; for affirming which, he taxeth *Olympiodorus* the *Theban*, a Pagan Historian also of this time, who began his History with this very Consulship, and extended it to the CCCCXXIV Year of our Lord. At *Ravenna*, *Stilicho* was ready in a short time with an Army to invade *Illyricum*; and, by the assistance of *Alarich*, to take Cities from the Dominion of *Arcadius*, and annex them to that of *Honorius*; when the Design was thwarted by two Impediments. For News was brought that *Alarich* was dead; and Letters arrived from *Rome*, sent from *Honorius*; whereby he was informed concerning the usurpation of *Constantine* in *Britain*, and his passing over into the parts of *Gall*. The rumour of *Alarich*'s death was counted to be very uncertain; and the report of such as came afterward, and told how things stood, confirmed it so to be. But that concerning the promotion of *Constantine* found credit, and obliged *Stilicho* to defer his Expedition into *Illyricum*, and go to *Rome* to advise what was best to be done.

His usurpation diverted Stilicho from Illyricum.

28. To what War or Expedition forever it related, the *Honorati* were lately commanded to furnish out Soldiers; and amongst the rest, the Tribunes and Officers of the Army, though through their own merit and industry they had obtained their preferments, were called on as well as the rest. This seeming unreasonable, *Constantine* directed his Edict to *Stilicho*, by the Title of *Comes* and *Magister Militum*; whereby he required, that a Distinction should be made betwixt such as had risen by their merits, and such as had obtained the titular Honours of *Tribunes* and *Præfects* by way of *Codicils* or *Letters*; allowing the former for the privilege of being exempt from finding *Tirones*, as well in reference to the Tax as lately

The Honorati commanded to furnish out Soldiers.

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407.

Zosimus lib. 6. ad initium; p. 824.

L. 18. de Tironibus Cod. Tit. 1. de Codicillis Cod. Tit. 1. de Legibus Cod. Tit. 1. de Legibus.

Sect. 2. lately made, as such occasions for the time to come; with this further order, "that the *Comites* or *Duces Militum* should take nothing of them at their promotions; it being otherwise a part of the profit of great Officers to receive Fees from such as were advanced in the Army." This could not but be seasonable to encourage Military Men at this time, when there was need of them; as also, perhaps it was to gratify the *Decurii* of *Rome*, by confirming whatever privileges had been formerly granted them from himself, or his Predecessors, by a Rescript inscribed to *Curius* the *Præfectus Prætorio* of *Italy*. But as he had reason to encourage deserving persons, there was as great reason he should not be too lavish in a time of so great expence; much less be imposed upon, and cheated in his Largeffes. Former Princes had ordained, that all Petitions should be void, which were put up for any abatement of Taxes, or other immunities relating to the Revenue, except they were drawn and ordered by the *Palatine* Officers belonging to the *Comes S. L.* or High Treasurer. The reason was, because these Officers having the management of such matters in their hands could instruct the Emperor, and inform, if any fraud concerning number of Acres, or other things, was obtruded upon him. To add further vigour to these Laws; whereas the punishment formerly of such Petitioners as did not have recourse to these Officers, and frame their business after this method; was loss of the third part of the worth of what they petitioned for, he finds reason to change it from three to four.

Arcadius kind to those about him.

29. Arcadius in the East had no such occasion to oblige his Military Men; or to look to the exactness of his Incomes; the Western Provinces being now become the Seats of War; and *Italy* it self the great Cockpit whither the Gamesters for the most part directed their courses, to contend for the Mastery. But he was pleased to be kind to those about him, or that served him in his Palace; in that, whereas ten years ago he had given immunity from the Praetorship, or exhibiting of Games, to such as after having laudably served their time in the Army, had been raised to the Dignity of *Duces Rei Militaris*, he now thought fit to grant the same Immunity to his *Proximi* of the *Servitia*, if they had already discharged their Employments. And he found reason to vindicate the Rights and Privileges of the *Cohortales*, or such as served the Governors of the Provinces; finding much about the same time, that it was the practice of some *Curiales* or others, to pretend to be of their number, though they were never entered in their Roll, nor by any duty they performed, had any right to their Privileges and Allowances. By these tricks sometimes they stepped into these preferments, which were only belonging to them that underwent the burthen; and the publick service was ill discharged, these persons not being obnoxious to examination by torture, as the *Cohortales* were, being merely *Conditionales*, or obnoxious to this kind of censure, as were amongst them the *Chartularii*, *Tabularii* and *Exceptores*. To prevent this, he forbids, that any be admitted, for the time to come, to execute matters belonging to these Men, if they were not first matriculated, or entered in the Roll; but for such as at present did it, he commands that they be detained: Nay, though by a Rescript directed to any of the inferior Judges, they were discharged from the obligation, he orders, that they be drawn back; such only being to be excused, as were freed by any Order sent to the *Præfectus Prætorio* himself; whose Prerogative, as in other things, so in this was the more remarkable. At the latter end of the Year he found reason to abate the rigour of the Law made two years before against the Ordinary Judges (*Consulares* and *Præfides*) their making use of his Palaces. They had indeed *Prætorii*, or Houses destined peculiarly to their service; but they were ordinarily built in Cities or Towns that stood upon the publick Roman way. But they had often occasion to travel through the Countries and Villages where none of these ways lay, neither had they any *Prætorii* near. This put them to great inconveniences for want of Accommodation: and to redress them, Arcadius now tells *Anthemius* the *Præfect*, that in such places they shall have liberty, notwithstanding the late Law, to make some stay in his Palaces, as their business requires.

Arcadius died Emperor dicit.

30. *Balsus* and *Philippus* were *Consuls* for the Year that next followed, or the CCCCXVIII of our Lord, which was the last of Arcadius the Emperor, who died, as they say, that speak most probably, on the first of May. By his Wife *Eudoxia*, the Daughter of *Bauto* the *Frank*, as *Philostorgius* writes, and who died some two years before him, he left five Children, which were his Son *Theodosius*, and four Daughters, *Pulcheria*, *Placidia*, *Arcadia* and *Marina*. He died in the flower of his Age, whereof he had not yet completed the thirty first year; having

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L. 4. de Decurii
cod. Th. lib. 7.
l. 4. de Offi. A.
l. 4. de Offi. A.
cod. Th.

L. 4. de Immuni-
tate concessa.
cod. Th. lib. 1.
l. 11. s. 1.
Prætorii libris
viri illis.
com. S. l. 3. id.
lib. 1. de Offi. A.
cod. Th.

L. 13. de Præsi-
diis, c. 1. cod.
Th. lib. 9. c. 1.
För. dicit. A.
cod. Th.

L. 20. de Cohor-
taliis, cod. Th.
l. 1. de Cohor-
taliis, cod. Th.
l. 1. de Cohor-
taliis, cod. Th.

L. 2. de Quis in
Palatii muni-
ciis, cod. Th.
l. 1. de Quis in
Palatii muni-
ciis, cod. Th.

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408.

Balsus et Phi-

lippus C.

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How he left
his Son.

Some Laws
uncertain in
their Date
made before
Arcadius his
Death.

Anthemius and
Troilus set
themselves to
the reforming
of matters.

Receive all complaints
and redress
the Officers
belonging to
the Treasury.

reigned together with his Father twelve, and after his death thirteen, three Months, and fifteen days. Leaving his Son so exceeding young, and believing his Brother *Honorius* to bear him no great kindness; for fear he should be wronged, he left him to the Tuition and Protection of *Flaegerdes*, the King of *Persia*, with whom he had entered into a strict League and Alliance for an hundred years. He undertook it sincerely, and discharged it as faithfully, sending in his room to *Constantinople* one *Antiochus*, a most prudent Man, whom some will have to have been sent also Ambassadour to *Honorius*, to procure peace and good understanding betwixt him and his Nephew. Some write also, that *Honorius*, moved with commiseration toward the Child, determined to hasten to *Constantinople*, there to take order for his safety and authority; but was hindered by the usurpation of *Constantine*: and afterward having intention to send *Stilicho*, the discovery of his treasonable Designs, prevented that. But however *Antiochus* managed matters in the room of *Flaegerdes*: the great Pillar of the Eastern Empire, doubtless, was *Anthemius*, the *Præfectus Prætorio*, who, as *Socrates* tells us, was the main Man that stood by the young Emperor in his Government. He writes, that he compassed *Constantinople* with a strong Wall; that he seemed, and was in reality, one of the wisest of that Age: that he never enterprised any thing without good advisement, conferring first with some of his Friends, concerning the business he went about; but above all others, made use of the advice of *Troilus* the Sophist, a Man very wise also, and of great experience. But *Pulcheria*, the eldest Sister of the Emperor, though at her Father's death said to be not ten years old, yet growing up to riper years, sustained a great share of the care and troubles of the Empire, of whose prudence, piety, and other virtues, very much is said.

31. There are some Laws extant, bearing date from *Constantinople* before the death of *Arcadius*, and yet having not his name prefixed; but only those of his Brother and Son. Either in the Date or Inscription, there is some error; but however, they were made either not long before, or not long after his death. One of them is to provide for the Necessities of *Illyricum*, as it terms them, in order to which it requires, that no privilege be pretended to excuse any person from the building of Walls, and the finding and conveyance of Provisions. This must have relation to the attempts made by *Stilicho* this year, against the Cities of *Illyricum*, of which we shall shortly hear more from *Zosimus*, who would have us believe, that his aim was only to increase the Dominions of his Master *Honorius*; whereas other Writers make it a design, of conferring the Empire upon *Eucherius* his Son. This Edict is inscribed to *Arcadius* the *Præfectus Prætorio* of *Illyricum*, whose District was now in danger. And about the same time, that of *Anthemius* the *Præfect* of the *East*, was not in good repose. For, now did the *Isauri*, those ancient Thieves (the place of whose Habitation being so convenient for harbouring of Robbers, required as much Guard upon it, as did a Limit or Border of the Empire) renew their Depredations upon the Neighbouring Countries. Toward the end of April, a Rescript was directed to *Anthemius*, whereby he was enjoined to give notice to the Judges of the Provinces, (as of *Sauria*, *Pamphylia*, *Cilicia*, *Lycania*, and *Pisidia*) that they should not forbear the examination by torture, of these Thieves, not on any day in Lent, no not of Easter; that the discovery of their wicked designs, might not be deferred; it being easiest to be hoped, that God Almighty would not be angry for doing that, by which the safety and preservation of many persons would be procured.

32. Whether these Laws were made before or after the death of *Arcadius* is uncertain; but he being gone, certain it is, that *Anthemius* and *Troilus* applied themselves to the management of publick Affairs, and reforming such things as had been out of order, during his Government. One of these, the neglecting or discouraging of Messengers from the Provinces, seems to have been; though *Synesius* in his Epistle to him concerning such grievances as pressed most upon the Empire, desired him to be free and easy in admitting the complaints of the People. That they desired his Son should so be, now appears from an Edict directed to *Anthemius* this Year; whereby he is commanded to receive, all such complaints and requests; to enter them in his Office, and then make report to the Emperor of what is worthy his consideration, who promitteth all necessary remedies for the ease of those that were aggrieved. One complaint there was, that the *Agentes in Rebus*, and the *Palatine* Officers, belonging to both the High Treasurers, who were wont to be sent into the Provinces, to urge the collection of Tributes, were found to exact or gather the Money themselves; which because of their influence and ava-

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rice much to the disturbance and oppression of the People; especially of the Province of *Achaia*: *Anthemius* is ordered to take care, that for the time to come, "this be no more practised; but that these Men only urge the Governours of Provinces, by often repairing to them, and their Officers, to the Collection. If a any Governour, either to be rid of their importunity, or for any other reason, permit them to levy the Tributes, the Law imposes a Mult of twenty pounds of Gold, both upon him, and upon his Office.

Honorius endeavours to reform several Abuses at Rome.

Gall miserably visited by the Vandals.

Cæsarizes prosper there

33. *Honorius* this year, for some time, was at *Rome*; whence afterward he removed to *Bononia* and *Ticinum*; and, at length, by *Milan*, to *Ravenna*. While at *Rome* he took care to gratify the Citizens by providing better for their subsistence, and confirming the Privileges granted to their several Bodies. Observing also that Judges were often drawn aside by the awe of the *Honorati*, or great persons; who, when they had causes to be tried, would come into Court, and sit with the Judges; he now prohibited, that they should be admitted to sit with them, when the merits of their causes were dispatching; as also, that any whole Suits were depending, should visit them at Noon time. If any should offend in this kind, he inflicts a Fine of five pounds of Gold upon the Judge, as much up- on his Office, and as much upon any of the *Honorati*, so offending. "The latter part of this Law is but agreeable to what had been formerly ordained by *Valens*, *Gratian* and *Valentinian*, against visiting of the Ordinary Judge, in the Afternoons, and *Caisicus* observes, that it had been also provided by *Augustus* in the *Fulian* Laws, concerning Judicature (by *Macrobins* called Edicts,) that neither the Defendant nor Accuser should enter the House of the Judge: moreover, by the same Laws, a Judge was prohibited to come into the Houses of other persons; as under *Tiberius* a *Senatusconsultum* was made, that Senators should not set their Feet within the Houses of the *Pantomimi*; and another under *Claudius*, which forbade Soldiers to enter the dwellings of Senators under pretence of saluting them; such diversity is there in the state and condition of times, according to which, Legislators are to take their measures.

34. But, while *Honorius* lay at *Rome*, the Provinces of *Gall* were miserably afflicted by the *Vandals*, who passing out of *Belgica* into *Aquitain*, wasted all the Country, together with those of *Novempopulania*, *Lyons* and *Narbon*. Now it was, that, as *S. Hierom* writes, innumerable and most savage Nations, had seized upon all *Gall*; that all the Tract lying betwixt the *Alpes*, and the *Pyreneans*, the Ocean, and the River *Rhose*, was wasted by the *Quadi*, *Vandals*, *Sarmatians*, *Alani*, *Gepedes*, *Hervuli*, *Saxons*, *Burgundians* and *Pannonians*. *Maguntiacum*, now *Mentz*, in times past a noble City, saith he, is taken and destroyed; many thousands of Men having been killed in the Church: those of the strong City of *Rheims*, *Amiens*, *Arras*, the Country of the *Morini*, *Tournay*, *Nemetes* and *Argentoratus* (or *Strasbourg*) are translated into *Germany*. The Provinces of *Aquitain*, *Novempopulania*, of *Lyons* and *Narbon* are over-run, a few Cities excepted, and they are vexed, without by the Sword, and within by Famine. I cannot without tears make mention of *Tolouse*, which hath hitherto been preserved from Ruine, by the merits of holy *Exuperius* the Bishop. *Spain* it self, as about to perish daily, trembles, calling to mind the Irruption of the *Cimbri*, and other such dismal Stories. *Constantine* the Tyrant, at the same time endeavoured to establish himself as Lord, of what these *Barbarians* left behind them. To interrupt him in his endeavours, one *Sarus* was sent by *Stilicho*, with an Army; who meeting with *Fustinian*, killed him with the greatest part of his Forces; and having got very much booty, when he heard that *Constantine* had removed himself to *Valentia*, a City he thought very proper for his defence, he there resolved to besiege him. *Nevisgastes* the other Commander, he treated with, and kindly received him; but afterward slew him, though he had given him faith to the contrary. Into their places *Constantine* promoted *Edobechus* a *Frank*, and *Gerontius* born in *Britain*; the skill and valour of which persons were so well known to *Sarus*, that for fear of them, he rose up and departed from *Valentia*, after he had besieged it seven days. They pursued him, and that with such vigour and execution, that with much labour he hardly escaped to the *Alpes*, where he gave up all his Booty to the *Bacande*, who there met him to suffer him to have free passage into *Italy*. He being removed, *Constantine* gathered together all his Forces, and resolved to fortify the *Alpes*, which lay in the way betwixt *Italy* and *Gallia Celtica*, being three in number, and known by the Names of *Cæsie*, *Pœnina*, and *Maritima*. This he did, and also fortified the *Rhine*, to provide as well against the Influx of the *Barbarians*, as of the *Romans*; though

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ani legatione
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7. id. Decem.

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34.

zefmus lib. 8.
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Zosimus writes, that he fortified the *Alpes* to keep the Barbarous Nations out of *Gall*, as if they had come out of *Italy*, and were not in the heart of *Gall* already. And he hints, as truly, that, since the time of his dear *Fulian*, the *Rhine*, or the Limit thereof, had, till now, been neglected.

He gives the Title of Cæsar to his Son Cæsarius.

Who in Spain, deposes the Kingmen of *Honorius*.

May being dead, *Honorius* marries *Theodora*.

A noble march Westward.

Stilicho and his Party for Peace.

Why.

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35. Having taken such order for his Affairs in *Gall*, he adorned *Constantin*, his eldest Son (who had been a Monk; and, as our *British* Writers say, in the Monastery at *Winchester*) with the Title and Habit of *Cæsar*, and sent him into *Spain*, all the Nations whereof, he was ambitious to bring into subjection; both to augment his own Dominion, and to remove the power, which the Kindred of *Honorius* had in that Country: whence he feared they might set upon him from beyond the *Pyreneans*, at such time as the Emperor might send another Army over the *Alpes*; and so, overpower, and suppress him. *Constantin*, with one *Trentinius*, his General, and *Apollinaris*, his *Præfectus Prætorio*, passed over into *Spain*, furnished and attended sufficiently; and set himself against such as he there found of the Kindred of *Theodosius*, who (as *Zosimus* cannot forbear to vent his malice against that Prince) disturbed the Affairs of their Native Country. They made use of the Soldiers belonging to *Lusitania*, or *Portugal*: And when with them they could not prevail, got together a multitude of Slaves and Husband-men; and so managed their matters, that they were in a fair way to succeed, and make an end of *Constantin*. But, for all this, the Tide turned; and, instead of making him a Prisoner, they and their Wives were taken by him, and committed to custody; their names being *Peregrinus* and *Dalmianus*. They had two Brothers, *Theodosius* and *Lagodius*, who, upon notice of it, fled, and made their escape, the one into *Italy*, and the other into the East. They themselves were carried away by *Constantin*; who (after he had committed the care of the *Pyreneans* to *Gerontius*, to be kept with a Guard of *Galls*; though the *Spanish* Army desired to have the Charge) returned to his Father, and presented them to his View; who instantly commanded them to be put to death.

36. Thus went matters in *Gall* and *Spain*; when, in the mean time, the Emperor *Honorius*, having lost *Mary*, his Wife, the eldest Daughter of *Stilicho*; desired, that *Theodora*, his younger Sister, might be given him in Marriage. *Stilicho* seemed to be averse to it: But his Wife *Serenæ* urged him to it, upon this Account. When *Honorius* contracted Marriage first, with *Mary*, her Mother knowing that she was not ripe for his Bed; and yet, not able to prevent or defer the Wedding: concluding also, that it was to offer violence to Nature, to have her Virginity taken from her; used the Art of a certain Woman, skilled in such goodly Mysteries: and, by her endeavours brought it to pass, that the Girl lived, and lay with the Emperor; but he neither had any Will, or Power, to enjoy her. Sometime, the Sister lived and died a Virgin: But, after her death, her Mother, desiring to have some issue by *Honorius*; that she might not be deprived of that great power and place which she enjoyed, used her endeavours to marry him to her second Daughter: Which being done, she died also not long after; the same thing having happened to her, as to the former. While this was transacting, News was brought to *Stilicho*; that *Marich*, having quitted *Epirus*, and passed the Straits lying betwixt *Pannonia* and *Pænetia*, had encamped himself at a Town called *Æmon*; built, as *Zosimus* tells you, by the *Argonauts*, between the upper *Pannonia* and *Noricum*. From *Æmon* he removed, and passed the River *Aquidun*; as also, the *Apennine* Mountains; which closing up *Pannonia*, afford very difficult passage to such as travel to *Noricum*; these Straits being easy to be kept by a few Men, against a great multitude, which would force their way. Having passed these Straits, from *Noricum* he sent Messengers to *Stilicho*, to demand Money, both for the delay he had made in *Epirus*, and also, for this his Expedition, which, thereupon he was forced to undertake. *Stilicho* left the Messengers at *Ravenna*, and went to *Rome*, to consult the Emperor and Senate, what was to be done in this Affair. The Senate being assembled in the Palace, and the Question put, whether War should not be made? very many gave their Voices in the Affirmative: Only, *Stilicho*, and a few besides, who, by fear, were brought to be of his Party, were of the contrary opinion; and advised to make Peace with *Marich*.

37. They that preferred War, desired *Stilicho* to shew his Reasons, why he was so much for Peace, which was to be bought with money too; to the disgrace of the Roman Majesty. He answered, because *Marich* had continued so long in *Epirus*, for the advantage of the Emperor; that, joining with himself, he might make War upon *Arvadus*; and, taking *Illyricum* out of his hands, add it to the Dominion

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The Senate
resolves it.But Honorius
resolves for
Ravenna.

of *Honorius*. This, he affirmed, would have come to pass, if his Expedition had not been hindered by the Letters of *Honorius*; in expectation whereof, *Alarich* had consumed so much time. With this, he shewed them the Emperor's Letters, and laid the blame upon *Sereus*, her labouring to preserve Amity betwixt the two Princes. *Stilicho* seeming to speak nothing but Sense, the Senate was content, that four thousand pounds of Gold should be paid to *Alarich*; and that, for Peace; though most contented, against their Judgments, merely for fear of *Stilicho*. And, *Lampadius*, a man of great Birth and Dignity, plainly told them; that, This was not a Peace, but a *Paction of Servitude*: For which liberty of speech, fearing he might lose that of his person, when the Senate was dismissed, he betook himself to the next Church of the Christians. *Stilicho*, having, by virtue of this *Senatus-Consultum*, made Peace with *Alarich*, prepared all things for the Expedition, which he had designed: when the Emperor told him, he was resolved to go from *Rome*, to *Revenna*, to see and caress the Army, which was to grapple with so considerable an Enemy. And, this he said, not of himself, but was moved thereto by *Sereus*: She desiring he should be in a City of most safety; that, if *Alarich* should break the Peace, he might not yet get the Emperor into his Power; whom she endeavoured to preserve, her safety depending upon that of his. However, *Stilicho* did nothing approve of this his Journey; and devised several ways, how to prevent it; which, not being effectual, he procured *Sereus*, the Captain of the *Barbarians*, that lay at *Revenna*, to make disturbance; not with any design of innovation, but to affright the Emperor, and divert him from his design. But, *Honorius*, not at all yielding to these Attempts; one *Julianus*, an Advocate of great note, whom *Stilicho* had made choice of for his Affessor and Councillor; being a man of excellent Wit, smelt out the Emperor's design, by certain Tokens: And, knowing that the Troops which lay at *Ticinum*, or *Pavia*, bore ill will to *Stilicho*, guessed what would become of him, if the Emperor should repeat thither. He ceased not therefore, still to desire him to prevent the Emperor's going. But, when he perceived, that *Honorius* would not hearken to what *Stilicho* said; fearing that, for their Familiarity sake, he might make shipwreck of his Fortune with him, he fairly left him, and went his way.

38. Before this, the News of the death of *Arcadius* was brought to *Rome*; and, after the departure of *Honorius* for *Revenna*, was confirmed. *Stilicho* being got to *Revenna*, and *Honorius* to *Bononia*, a City of *Æmilia*, seventy miles distant from *Revenna*; *Stilicho* was thither sent, to chastise and reduce the Soldiers into Order, who had mutined by the way. He, having called them together, and told them, how the Emperor's Command was, that they should not only be chastised, but every tenth man be taken out, and put to death; struck them with such terror, that they all fell a weeping; and drew him to such a Commiseration of their Condition, that he promised them pardon from the Prince. This *Honorius* ratified: and then they fell into a Consultation about the publick Affairs. *Stilicho* had a desire to go into the East; and to settle the Concernments of *Theodosius*, the young Son of *Arcadius*: who stood in need of Assistance: and *Honorius* himself thought of taking a Journey thither, to put the Affairs of his Nephew into good Order. *Stilicho*, having no mind to hear of this, by shewing him the vast Expence he must make in the Expedition, deterred him from his purpose. Besides, he urged, that it was highly necessary that he should not be much absent from *Italy*, nor *Rome* itself; because *Constantine*, the Usurper, had over-ran all *Gall*, and had taken up his Station at *Arles*. And, yet farther he pressed, that *Alarich* was also to be feared; who had a great Power of Men, was a *Barbarian*, and deceitful: who, if he found *Italy* naked, and destitute of Aid, would not fall, suddenly to invade it. In conclusion, he added, that the best way was to send *Alarich* against the Tyrant, with part of the *Barbarians* he had with him, and the *Roman* Legions joyned together; which should be jointly commanded by him, and the Officers belonging to the said Legions. And, that he himself should be, by the Emperor, dispatched away into the East, with Letters, containing the sum of what he would have there transacted.

Stilicho desires
to be sent into
the East.

Yet goes not.

39. *Honorius*, approving of all that was said by *Stilicho*, wrote Letters to the Emperor of the East, and to *Alarich*; and departed from *Revenna*. But, as for *Stilicho*, he, notwithstanding, continued where he was; neither taking his Journey for the East, nor putting in Execution any thing that had been resolved. Neither did he remove those Soldiers that lay at *Ticinum*, to *Revenna*, nor any other place; left, having opportunity of speaking with the Emperor, they should put him upon

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The Soldiers
fall into a Ma-
tiny.

upon attempting something against himself. Thus, *Stilicho*, being neither conscious of any unworthy things, designed, either against the Emperor, or the Army, behaved himself. But, there was one *Olympius*, born about the *Euxine* Sea; who had got a splendid Employment at Court: and, under the show and pretence of Christian Piety, covered great Wickedness; and, counterfeiting great Sobriety and Modesty, was wont to discourse much with the Emperor. He offered many things to beget prejudice in him against *Stilicho*: And, in particular, that he designed his Journey into the East for no other cause, but that, having taken *Theodosius* out of the way, by sending him to another World, he might transfer the Sovereignty of those parts, upon his Son *Eucherius*. This he insinuated upon the way, as he had time and convenience: And, when they were come to *Ticinum*; visiting there the sick and maimed Soldiers, he laid hold also on them by these Charms. Four days had but passed after his Arrival, when the Emperor called the Soldiers together, shewed himself to them, and incited them to the War against *Constantine*. Of *Stilicho*, yet, there was no mention, till *Olympius* openly beckoned to the Soldiers as it were, putting them in mind of what he had in private discoursed with them. Hereat they fell into a rage and madness, and killed *Lincentius*, who had been *Præfectus Prætorio* in the Parts beyond the *Alpes*; together with *Charibaudes*, a *Magister Militum*, also in those Quarters: Both whom, had made their Escape from the Tyrant; and were come to the Emperor, to *Ticinum*. After this, they put to death *Vincentinus*, who was *Magister Equitum*; and *Salvius*, the *Comes Domesticonum*: And afterward, when the Emperor was withdrawn, and the other Magistrates had made their Escape, they poured themselves into the City; and pulling them out of the Houses where they thought to conceal themselves, they slew them, and plundered the Town.

40. The mischief being grown to that height, that it seemed incurable, the Emperor, casting a little Coat about him, without his Robe, or his Diadem, ran amongst them; and, with great labour and pains, could hardly appease their fury. *Nemorius*, Master of the *Palatine* Ranks; *Patronius*, the *Comes Rei Private*; and *Salvius*, whose Office it was to dictate such matters as the Emperor ordered; whom after the time of *Constantine*, they called *Questor*; after they had escaped from the place of Mutiny, and thought they were now safe, were also slain; of whom, *Salvius*, though he hung at, and embraced the very feet of the Emperor, could not obtain his Life. The Uproar continuing till the Evening, the Emperor withdrew, lest they should attempt any thing against his own Person: and, in the mean time, they murdered *Longinianus*, who was *Præfectus Prætorio* of *Italy*. All these were Magistrates that perished by the madness of the Soldiers: but, of others who fell into their hands by chance, so great a multitude miscarried, as was not easy to be reckoned. The Report of the Sedition being brought to *Bononia*, where *Stilicho* was yet continued, did exceedingly perplex him. He called together the Officers of the Confederate *Barbarians*, and consulted with them what was to be done. It was unanimously resolved; that, if the Emperor was killed, of which there was a rumour; then, all the Confederates should fall upon the *Roman* Soldiers; and, by chastising them, keep the rest in order. But, if the Magistrates were only made away, and he were safe; then should the procurers of the Mutiny be punished. Yet, *Stilicho*, when he heard that *Honorius* was alive, and no violence offered to his Person, left off thoughts of going to chastise the Army, and resolved to remove to *Revenna*: for, he considered how numerous it was; he knew, the Inclinations of the Emperor toward himself were inconstant; and he thought it neither laudable in it self, nor safe, to set the *Barbarians* upon the *Roman* Soldiers. While he was anxious, and deliberated about these things, the Officers that he had consulted, endeavoured to persuade him to put in practice what they had resolved: But, when they could not accomplish it, they purposed to stay in their several Quarters, and expect what the Emperor would determine concerning him. But *Sereus*, who, in Strength and Dignity, excelled all the other *Barbarians*, caused his Men to kill all those of *Stilicho*'s Guard, who kept constant Watch about him: and broke into his Tent; where he was musing, what would be the Issue of these Difficulties.

41. *Stilicho*, finding, that the *Barbarians* which he had about him, differed all amongst themselves, went to *Revenna*; and advised such Cities, where the Wives and Children of the *Barbarians* dwelt, that they should not permit any of those Nations to come amongst them. But, *Olympius*, who now inclined the Emperor as he pleased, sent his Letters to the Soldiers that lay at *Revenna*; which commanded, that they should lay hold on him, and commit him to free Custody. He having

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Stilicho put to
Death.

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42. This is the whole account which *Zosimus* gives concerning the Death of *Stilicho*, and the occasion of it; wherein he endeavours to render him innocent, and to have unjustly suffered: And with him agrees *Olympiodorus* also, an Historian of those times. But the general content of Writers is, that he was justly put to death, and that for several Crimes of no less consequence than high Treason. They accuse him of bringing *Alarich* into the Dominions of *Honorius*; and of letting the Barbarous Nations, as the *Alani*, *Suevi* and *Vandalis*, into the Western Provinces. Some say he attempted to poison *Honorius*, and that he stamped Money, though without the Imperial Habit, or Image of an Emperor. The drift of all his designs, they say, was this, that (as *Zosimus* writes of *Olympius* his Insinuations,) he might transfer the Title and Dignity of Emperor, upon his own Son *Eucherius*. They who take a View of the opinions of these Diffenters, observe, that the *Pagan* Writers acquit him of the Crime, and that *Christians* lay it heavily to his Charge. But not only *Christians*, but one *Pagan* Author also, a Poet of this time, *Rutilius Numanianus* in his Itinerary, writes of him as a betrayer of the Empire, and as him that called the *Barbarians* into *Italy*. This he did, they say, to give disturbance to the Affairs of *Honorius*; or, to weaken the Empire, and make it more capable of his Attempts, when a seasonable time should come, for which he reserved his Friend *Alarich*. Indeed *Zosimus* tells us that the purpose of *Stilicho* was, when he saw that the Courtiers at *Constantinople* hated him, by contracting a League with *Alarich*, to lay the Cities of *Italy* to the Dominion of *Honorius*; and *Olympiodorus* saith, that he sent for *Alarich* to subdue *Illyrium*; but gives another Reason for it; because that Province had false to *Honorius* his share in the partition made by *Theodosius*.

43. To lay truly, the management of the War against *Alarich* in *Italy*, so much as we can know of it, was very odd. *Orosius* though he said but little when he wrote thus: I say nothing concerning *King Alarich* often beaten with his Goths, often taken (as in a Pound or Net) and always dismissed, yet had reason to think much. If we well mark *Claudian*, we shall perceive him sometimes put to it, to make the best of Matters; and sometimes to write obscurely concerning that War: particularly of that *Alan* who lost his Life in *Italy*. What mean his flourishes, when he saith that he was worthy of the Elysian Fields, and to be celebrated in *Verses*, who, though it were by his Death, burnt with a desire to purge suspected Fidelity, and with his Blood, washed off that undeserved Stain? That *Pagan* Writers (so partial as we see they are,) should bear great respect to the Cause and Person of *Stilicho*, we cannot wonder, when we are told by *Orosius*, that his Son *Eucherius*, to procure the favour of the Gentiles, threatened that he would bring his Reign with the restitution of the Temples and destruction of Churches. But, the *Encyclopaedia* which *Zosimus* gives him at parting, seems little to agree with what he saith in other places concerning his Actions. The great Modesty and Abstinence he speaks of here, little suites with Rapacity, wherewith he charges him as well

Orosius, *Itinerary*,
maior, *Philosophus*,
giz.

Quo magis si fa-
cians dicit Sti-
lichonis arde-
bam, Prodig-
erant quod pui-
temper.

Salis, Elysi-
que plagi &
crucis dignis
qui mellestip-
on nobis arde-
tas esse vel le-
to pargere filios
qui iudice fer-
Stilichis immu-
tam laudat
Angustinus Cri-
non. De vita Gi-
ttica, a v. 520.

Seçt. 2. as *Rufinus*, after their entrance into the Office of Guardians; when all the Wealth flew into the Coffers of them two; the Cities being exhausted. We cannot also but remember what he writes of his Luxury and Debauchery, when he undertook his expedition into *Greece*. But how just or unjust forever the Cause of putting this Person to death was, we must needs say that, the whole Story of him taken together, he was a very great Man, and illustrated by his many and great Actions, as well as his Alliance. Yet, by descent, *Orosius* saith he was a *Vandal*, or sprung from the race of that weak, covetous, perfidious and wily Nation. His first considerable advancement was to take care of the Emperor *Theodosius* his Horses; or to be his *Comes Stabuli*, as we learn from *Claudian* in the Poem he wrote in commendation of his Wife *Serenia*; and thence he was promoted to be *Magister Equitum*, or rather *Utriusq; Militiæ*, as we find he was, by other Testimonies.

44. So great was the Prejudice conceived against him, as the Author of the late *Invasions* and *Disturbancies*, that he being now taken out of the way, they thought the Storm to be over. For, presently after his Death, as if now there was no need of extraordinary payments, which the *Invasions* of *Alarich* and *Radagisus* had made necessary, *Honorius* gave orders to *Theodosius* the *Præfectus Prætorio* of *Italy*, for taking off the Burthen which had been laid upon that part of the Country called *Italia Annonaria*, of finding those Provisions called *Annonæ Cellariensis*; of which we have formerly spoken; and he was as kind to *Senators*, as the ordinary sort; commanding also that their Tax or the *Glebalis Collatio*, should be removed. And now toward the latter end of *September* came out the usual Edict, for confiscating the Estates of Traitors and their Complices, enjoying *Theodosius*, that the Emperors Titles should be fixed throughout their Fields and all their Houses; as also that what their *Agents* had received of the Fruits of their Grounds, they should presently reckon for in the Treasury, under Pain of Banishment and Proscription. This Edict it seems did not operate so effectually but that there was need of another, a Month after, to reinforce what concerned the *Agents*, and such as had to do with the Estate of *Stilicho*, commanding them to bring in what they had kept back; but without any Penalty inflicted for Failure; so that Pardon for what was past, seems to be understood. These two Constitutions respected the Estates of *Stilicho* and his *Satellites* or Partisans, in the Surveying of which, there were Goods found mixed with them, that were claimed by other Persons. But of these Claimers it was found, or suspected, that some of them at least had given Estates both Moveable and Immoveable to him, his Son, or their *Satellites*, for the enriching (or disquieting) of *Barbarians*. And therefore by a third Edict, wherein he gives *Stilicho* the title of *Prædo Publicus*, or public Robber, he commands, that all such mixed Estates be confiscated, as were given for that purpose. It being always held for Law that no Action of recovery can lye where both the giver and receiver are found to be in turpitude or dishonesty; and in such cases, the Cause of the Exchequer is always held the better.

His estate and
those of his
Friends con-
fiscated.

45. But let us hear what *Zosimus* hath concerning the management of Matters after the death of *Stilicho*. All Affairs at Court were ordered according to the pleasure of *Olympius*. As for places, he was promoted to that of *Magister (Officiorum)* and the rest were distributed according to his recommendation. Now were all the familiar Friends, and such as had taken the part of *Stilicho*, fought out in all places, and amongst the rest *Denterius* the *Præpositus Cubiculi* of the Emperor, and *Peter* the *Tribune of the Scholæ of the Notaries*, were called to account, and subjected to Examination by Torture; but being neither able to accuse him nor themselves, *Olympius*, though he gained nothing by this Inquisition, yet caused them to be beaten to Death with Staves. Very many other also, as privy to the Designs of *Stilicho*, were drawn into Trouble and tortured, to discover his affecting the Imperial Dignity; but they all perishing in this, that they knew nothing of it, a stop was put to the Curiosity of those who were active in fishing out such matters. The Emperor deposed his Wife *Thermantia*, and caused her to be sent back to her Mother, though she was not thurmented by any suspicion; and her Brother *Eucherius*, to be diligently sought for and put to Death, who was found to have fled to a Church in *Rome*, whence they dismissed him, out of reverence to the place. In that City *Helioiocrates* who was over the Treasury, producing the Emperors Letters which commanded that the Estates of all those should be Sold, who during the Power of *Stilicho* had obtained any place of Magistracy, busied himself in raising Moneys and filling the Coffers belonging to his Office, and not contenting himself or satiating his evil genius herewith, though

—Grævis nix
idem calum
dicit Agri
na, Quidam lo-
gunt mirum ge-
miss genitrix,
ut sit furis
Dulce vellet
pariter Barba-
ri ac Romani.

L. 4. De iudeli-
gentiis Dithi-
rum. Cod. Th. lib.
13. tit. 28. Dat.
id. Septem.
Apost. Cod. Jap.
ut imperaria.
L. 2. De iudi-
proscriptum
Cod. Th. Dat. 8.
Cal. Oclobris.

L. 1. tit. 12.
Dat. 8. Cal. Nove-
mbris.

L. 2. 2. tit. 12.
Dat. 10. Cal. Dy-
cem. 465.
Cod. Jap.

P. 811

What followed
upon his Death

Sect. 2.

he laid such Persons in Chains, and, God absenting himself, turned all things upside down, yet was added to those Mischiefs another thing of the like Nature. The Soldiers that were Quartered about in the Cities, when word was brought of *Stilicho's* Death, flew presently upon the Wives and Children of the *Barbarians* that then lay; and as if the Signal had been given, putting them all to the Sword, then sieled on all they had. This when their Relations heard, they met together from all Quarters, and grievously provoked by the impious violation of that Faith by the *Romans*, which had been given by calling God to Witness, they resolved to join with *Alarich*, and in Conjunction with him to enter into a War against *Rome*. Upon this account Thirty Thousand men, or more were gathered together, ready to go whither ever Occasion should direct.

Alarich his terms.

46. *Alarich* was not forward to accept of what they offered; but mindful of the Truce which had been made in the lifetime of *Stilicho*, preferred Peace before War. He sent to *Honorius* and offered the confirmation of it, for no great sum of Money; but he required that for performance of the Conditions, *Ætius* the Son of *Florentius*, and *Faustin* the Son of *Gardentius*, might be given up, as Hostages, into his Hands; in exchange for whom, he would send some of the Noblest of his own Nation; which being done, he would depart with his Forces out of *Noricum* into *Pannonia*. The Emperor rejected his Conditions. And if of two things he had done but one, he might have well enough provided for his Affairs. For he should either have put off the War by obtaining Truce for a small Sum of Money; or if he resolved for it, he should have got his Forces together from all Quarters; and there have placed them, where the Enemy was to make his passage, to give a stop to his farther progress. And he ought to have chosen *Sarus* for his General, who of himself was a terror to the Enemy both for his Valour and Military Skill; and had with him of *Barbarians*, a sufficient number to make resistance. But neither making choice of Peace, nor embracing the Friendship of *Sarus*, nor drawing together the *Roman* Army, but relying wholly upon the fancies and wishes of *Olympius*, he became Author of great Calamities to the State. For he made such Officers of his Army, as would rather raise contempt and confidence in the minds of his Enemies, than otherwise; giving the Command of the Horse to *Zuripilius*, of the Foot to *Varanes*; and of the Wing of the *Domesticks*, to *Vigilantius*, and other places he distributed to Men of equal fineness and capacity. This caused all Men to hang down their Heads, and despair; having now, as it were before their eyes, the destruction of *Italy*. So *Zosimus*.

Strangers for-
biden Rome.

47. But of such strength and continuance had the authority and Interest of *Stilicho* been; such his influence into all sorts of persons, especially those of the Military Employment, that there was great need to have a watching eye over his Party; however, it suffered, as *Zosimus* writes. Therefore did the Emperor forbid, that any of them that were proscribed, should come to Court, or set a foot within the City of *Rome*, under pain of Deportation: and also such Soldiers as by procurement of *Stilicho*, or his *Satellites*, had before their time obtain'd Testimonials or Letters for Dignities, as of *Tribunes* and *Protectors*; those of them excepted, whose Dwelling or Habitation was in *Rome*, from whom he did not apprehend such danger, as from those who had no just occasion to go thither. Well might *Honorius* have some jealousy and suspicion of these persons, when at this very time, after ten years had passed, he concerned himself about the *Satellites* of *Gildo*, some of whom, it seems, had lurked all this while, and concealed both themselves and Estates. Having notice, that now some such were discovered, he wrote back to *Donatus* the *Proconsul* of *Africa*, that they should be committed to custody, and proscribed; or their Estates sieled and sold; satisfying himself with this, without inflicting the pains of death, the prescription of ten years having mollified the sentence. At the end of the Year, he proceeded to remove some Abuses, which had been introduced by *Stilicho*; of which we had had no knowledge, but for an Historical Constitution, as I may term it, directed now to *Theodosius*: herein he tells him, that *Stilicho* the Publick Enemy, had found out a new and unwonted device to set many Guards upon Shores and Havens, lest any should pass out of the *East* into this part of the Empire. Moved, and that a free passage to and fro, may be opened. But because at this time more than ever, the greater and richer sort oppressed the poor and inferior, (one of the forerunning signs of the Empires approaching ruine:) He prohibits

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the Nobler, and the more Honourable, and richer persons to use Merchandize, that there might be a more free Commerce betwixt Plebeians and their Chapmen.

Fellow Sub-
jects prohib-
ited being
Slaves.

48. So hard hearted and unmerciful were the rich Men of this Age, that they were so far from giving relief to the Distressed, that it pleased them even to add affliction to affliction. For the Emperor farther informs us, that when an invasion of the *Barbarians* was feared in the Western *Ilyricum*, a great number of the Inhabitants, out of fear, and to avoid destruction, forsook their own, and went into other Countries. These, some persons were so impudent as to make Slaves, and that by insinuating something concerning them to the Emperor, in way of begging. Perceiving the horridness of the practice, *Honorius* bids the *Præfets* to take notice, and have a care, that for the time to come, none of *Ilyricum*, whether living at home in their own Country, or elsewhere, be begged in such manner. And some were yet more bold, without asking leave to seize upon the persons of their Fellow Subjects, which caused *Honorius* further to declare, That all such as were driven, or forced out of their own Countries, of whatsoever Province, Sex Condition or Age they were, should not by any Man be retained, but suffered freely to return to their own homes. Neither if any Cloaths or Meat was given them, should any thing be demanded for it, but set upon the Score of Humanity. But in case that any of them had been bought, or purchased of *Barbarians*, then thinks he it conducing to the publick utility, that the price be paid back to the purchasers. That a consideration of the loss of ones Money may not hinder a Work of such charity, he thinks it decent, that they that are redeemed, either return back what was paid, or else by the Labour, Work and Service of five years make them compensation, and then enjoy that freedom to which they were born. He wills therefore, that with this restriction they be all sent back into their own Countries, and there have all things entirely reformed to them, according to the *Fus Postliminii*. If any *Agent*, *Steward*, or *Farmer* shall endeavour to render this Law ineffectual, he condemns him to the Isles, and Deportation; and the Lord of the Ground he deprives of his Land, and banishes also into the Islands. For the more effectual putting of this order in execution, he will have the *Christians* of the next places to take care of it: By which he means the *Bishops* or *Clergy*, to whom the names of *Christian* and *Clerks* are especially appropriated, though at first they signified all the *Faithful*, or *Believers*; as in *France*, and here also with us the Confraternities or Audiences of *Bishops*, have been; and are still called *Courts Christian*: He admonisheth also the *Curiales* of the Neighbouring Cities, to take notice, that in such emergencies the intent and purpose of the Law is to be obeyed. And will have all the Governours of Provinces to know that they shall forfeit ten pounds of Gold themselves, and their Apparitors as much, if they neglect the execution of it.

Alarich his
council Italy.

49. The Consuls for the Year CCCCIX, were the two Emperours, *Honorius Augustus* the eighth time, and *Theodosius* the third. Before this, *Alarich* deriding the preparations made by *Honorius*, resolved on his Expedition against *Rome*. And because he would not attempt to great a matter on even hands only, but with advantages superior to those of the Emperor, he sent for *Aulusius*, his Wives Brother out of the upper *Pannonia* to have him for his Colleague and Assistant in the war, who had with him no small number of *Huns* and *Goths*; yet he staid not for his coming, but began his March, and passed *Aquileia* with the other Cities beyond *Eridani*, viz. *Concordia*, *Altinum* and *Cremona*. Having crossed the River, as on a Festival day without meeting with any adversary, he came to a Castle of *Bononia*, called *Oenobarbia*, whence having ranged *Emilia*, and left *Ravenna* behind him, he proceeded to *Ariminum*, a great City of *Flaminia*, and so at length into *Picenum*. Some say, that lying near *Ravenna*, he sent to *Honorius*, and desired peace, and that some place might be assigned to him and his in *Italy* to inhabit, promising in return to serve him faithfully as a Soldier. *Honorius* was sensible, that in strength he was inferior, and could not well grapple with him, but was so confident in the fortifications of *Ravenna*, and hoped so much from the Forces which before the death of *Stilicho* he had sent for out of the *East*; that he answered with great courage, that he could not yield to any of his demands; and that he should do well to remember what became of his last expedition. *Alarich* not satisfied with this Answer, moved towards *Rome*; and in his passage rifled all the Cities and Villages, inasmuch, that if before the coming of the *Barbarians* into these parts, *Ascius* and *Terentius* the Eunuchs had not presently made their escape, and

A. D.
408.L. de Con-
mercii. Cod.
Ful. lib. 4. tit. 5.
L. de Pœti-
tibus. Cod.
De Decret. Aliq. a
Cod. Jus. ut
temporaria.A. D.
409.Honorius 8,
Theodosius
3. Off.
Zosimus, p. 312.Passage open-
ed out of the
Eastern into
the Western
Empire.

Sect. 2. taken away *Eucherius*, the Son of *Stilicho*, to *Rome*, there to be put to death, which they inflicted upon him, the young Man had fallen into the hands of *Alarich*, and had escaped. But they having herein obeyed their orders, and restored *Thermania* to her Mother, not being able to return the same way to *Honorius*, they took Ship, and sailing toward *Gall*, came at length where he was. For their good service *Tarentinus* was made *Præpositus Cubiculi* to the Emperour, who conferred the next place upon *Aradius*. And *Bathaurius* being slain, who was *Magister Militum* in *Libya*, and had married the Sister of *Stilicho*, the Government of that Province was delivered to *Heraclianus*, who killed *Stilicho* with his own hand.

A. D.
409.

Blocks up
Rome.

Serena con-
demned to
death by the
Senate.

50. *Alarich* now drawing near *Rome*, and hopping up all the passages to it, a dreadful tumult arose in the City, at so unexpected a thing. Many Slaves and Barbarians made their escape to him; and the Pagans returning to their old Babel, contended, that the *Christian* Religion, whence all those mischiefs proceeded, was to be forsaken. But the Senate had *Serena* in suspension, as if she had brought the Barbarians against the City; and the Fathers, together with *Placidia*, the Emperour's Sister, resolved that she ought to be put to death, as the cause of all these great calamities. They concluded, that if she was removed out of the way, he would raise the Siege; there being none then remaining that would betray the place into his hands. This suspicion was altogether false, and without ground, *Serena* having never once had such a thought. But *Zosimus* tells you, the justly suffered punishment for offering violence to divine things, in such manner as he is pleased to relate. At such time as *Theodosius* the elder, having suppressed the tyranny of *Eugenius*, came to *Rome*, he procured a contempt of sacred worship in the minds of all Men, refusing to allow, out of the publick stock, any thing to defray the expence of Sacrifices; then were the Priests of both Sexes driven away, and the Temples stood desolate, and without their wonted Ceremonies. Then did *Serena* flout at them, and would needs see the Temple of the Mother of the Gods, where beholding a Bracelet about the Neck of *Rhea*, and worthy of that divine Worship, took it from the Image, and put it about her own Neck. When an old Woman that was left of the Vestal Virgins, saw it, she upbraided her to her face with her impiety; but she grievously reviled her, and made her Attendants drive her away, who, at her departing wished, that such vengeance as was due to such wickedness might light on her, her Husband, and her Children. But she giving no heed to such things, carried away the Ornament, with which she was very much pleased; but often afterward a thing appeared to her both sleeping and waking, which denounced to her imminent death. Others also there were that had sight of such Apparitions. But though vengeance, the persecutor of wicked persons, did thus do her office; yet though *Serena* knew it, she had no care of her self; but at last gave that Neck to be broken by the Halter, which had worn the Necklace of the Goddess. Moreover, *Stilicho* himself, for an impiety of the like nature, did not escape the secret effects of vengeance, as the report went. For it was said, that he commanded the Plates of Gold to be taken from the Doors of the Capitol at *Rome*, and those that were commanded to do it, left this written upon the Doors: *They are kept for a miserable King*. To which, the event answered; for he miserably ended his life. Thus, *Zosimus* the Pagan, attributes their death to what he esteemed *Sterilidge*; whereas others, with more reason, believe them punished for their ambitious practices to let up their Son.

51. But however, the death of *Serena* did not procure the raising of the Siege; which *Alarich* to far enforced, that he blocked up all the Gates, and sealing on *Thier*, stopped all Commerce, and Provisions from coming by Sea. The Romans resolved to endure it, expecting every day relief from *Ravenna*; but when none came, they thought fit to diminish their ordinary and daily expence of Provisions by one half; and after that, when still there was little hope, they lived on a third part of that which formerly they had allowed themselves. Yet did not this course prevent a Famine, which by the many ill accidents it afforded, drew on a Plague, and all places were filled with dead Bodies. For, the Enemy having possessed himself of all the ways, the City it self became the Sepulchre of the dead; which thing was enough to render the place desolate; for if there had been no Famine at all, the stench arising from the Carcases would have destroyed the Inhabitants. *Leta*, who had been the Wife of *Gratian*, and *Pissamena*, her Mother, relieved many, and that for a long time; having by the liberality of *Theodosius*, obtain'd an allowance for a Royal Table, out of the Treasury. But the matter having now proceeded to all extremity, and they being ready to devour one another, after at-

tempts

Sect. 2. tempts made, which at another time would have seemed abominable, they resolved to send to the Enemy, and to tell him, that they were ready to make a peace on reasonable or moderate terms; yet more ready to fight; the People of *Rome* having, after it had once taken up Arms, not been accustomed to stand in fear of any. *Basilus* was chosen for the Messenger, a *Spaniard* by original, and President of a Province, with whom joined himself one *Folm*, who was the Overler of those Notaries of the Prince, which, *Zosimus* tells us, they called *Tribunes*, being a Man fit enough, as known to *Alarich*. And yet they knew not certainly in *Rome* whether *Alarich* himself was at the Siege, a rumour being spread, that there was some other who had favoured the cause of *Stilicho*; but when the Messengers were come to the Camp, they saw in how great ignorance the People had been in so long time, and were ashamed of it. When they had told their Errand, *Alarich* took especial notice of this, that the People was ready to fight; and answering, that thick Grass was more easily cut than thin, fell into a great laughter, and derided them.

A. D.
409.

A Truce
granted.

52. When they came to the debate about peace, he used expressions exceeding even all Barbarous Insolence. He affirmed, he would not raise his Siege till he had all their Gold and Silver, rich Household Stuff, and such Slaves as were of the Barbarous Nations, delivered into his hands. One of the Messengers hereat asking what then he would leave remaining to them in the City; he answered, their lives. Having obtained a Truce, in order to a further Treaty, they returned to *Rome* with his answer. And *Zosimus* tells you, that the Romans being now convinced that it was *Alarich* that besieged them, and despairing of all things which Man could perform, they bethought themselves of that assistance of which the City had had experience, when vexed with Seditions, and how having forsaken their ancient Rites, they had been deprived of it. While they considered hereof, *Pompeianus*, the Prefect of the City, met by chance with some that were come from *Tulyia*, and affirmed, that they had freed a Town, called *Neveia*, from imminent danger, by their Vows and Country Rites, having procured grievous Thunder and Lightning, you must know, and driven to flight the Barbarians. Having spoken with these Men, he did whatsoever was required by the Books of the *Pontifices*; but considering of the then prevalent opinion, that he might do it safely, he communicated his whole design to the Bishop of the City, whose name was *Innocent*; who preferring the safety of the place before his own Opinion, permitted them to do what they thought fit. But they affirming, that nothing would avail the City, except the wonted Sacrifices were publicly restored, the Senate ascending into the Capitol, and as well there, as in every Forum of the City, celebrating the usual Rites, nobody durst be present at the Ceremonies of their Country, but those Men that came from *Tulyia*, being bid farewell, applied themselves to appease and mollify the Barbarian all the other ways they could imagine. They sent Messengers to him a second time, and after much said, and contended on both sides, it was agreed, that the City should pay down five thousand pounds of Gold, thirty thousand of Silver, four thousand Silk Coats, three thousand Skins of Purple Dye, and as many pounds of Pepper.

53. The City had nothing now in Bank, and therefore the Senators were to be taxed according to their Estates, the care whereof was committed to *Palladius*. He was not able to raise the Sum, either for that the owners concealed part of their Goods, or because the City was grown poor, by reason of the covetous and continual exactions of the Emperours; and therefore (you hear *Zosimus*) that wicked Genius which then governed the Affairs of mankind, impelled those that were concerned in the raising of this Money, to the very height of Villany. For what was wanting in the Sum, they supplied out of the Ornaments belonging to the Images of the Gods, which amounted to no other than this, that those Images which had been dedicated with Sacred Rites and Ceremonies, and decently adorned, because they had preserved the City in perpetual felicity, should now by diminishing of these Ceremonies become altogether as inauspicious and ineffectual. And because all things which could tend to the destruction of the City were to concur, they not only deprived their Images of their Ornaments, but melted down some that were made of Gold and Silver; amongst which was the Image of *Valour*; and it being thus destroyed, all that *Fortitude* or *Valor* which remained to the Romans, was extinguished; which persons that were skillful in divine matters, and exercised in the Rites of their Country, did predict. Money being raised in this manner, it was thought fit to send to the Emperour, to ac-

quaint

C c c c 2

Sect. 2.

The Siege of Rome raised by Money, as Zosimus tells the Story.

quaint him with the Agreement, and to let him know, that *Alarich* demanded not only Money, but the Sons of Noble Men for Hostages; and upon these terms would not only make a peace, but enter into a League offensive and defensive with him, and march against any one who should act in an hostile manner against him; and then the Money was paid to the *Barbarians*. And *Alarich* for three days, opened a Market to the hungry Citizens, granting them liberty to pass out at certain Gates, and permitting Provisions to be brought in from the Haven. The Citizens having thus refreshed themselves, the *Barbarians* departed from *Rome*, and encamped in the places about *Tuscia*. But all the Slaves in a manner that were at *Rome*, fled away; every day some, and joyed with them, inasmuch that their number reached to forty thousand; and while the *Romans* were employed in bringing in Necessaries from the Haven, the *Barbarians* straggling up and down, fell upon them. This, *Alarich*, when he knew it, both severely punished, and prohibited for the time to come. This mitigation of mischief, as it appeared, fell out at such time as *Honorius* the Emperor entered the Consalship at *Revenna*, enjoying now that Honour the eighth time, and *Theodosius Augustus* the third time, in the East.

54. This is *Zosimus* his Relation, full of zeal for his ancient Country Rites and Ceremonies, which transported him so far out of the way of veracity, as to cast dirt upon the memory of *Innocent* the Bishop, as we may with as much reason as charity believe, because the Ecclesiastical Writers, some of whom were prejudiced against him, lay no such matter to his charge. The Men of *Tuscia* we are to take for no other than *Etruscan* Soothsayers, who were much skilled in such like Mysteries. The Town they pretended to preserve by their Conjuring, is by *Jozen* called *Lavinia* in *Tuscia*; and by *Stephanus* it is taken for *Narnia*. Why they could not shew such Feats at *Rome*, *Zosimus* gives but a slender account; for, others write, that many Senators of the *Pagan* Persecution did really sacrifice; and that the Soothsayers were not accidentally met, but sent for on purpose by the *Præfēt*: their Gods must have been very weak, or very angry, that could not, or would not deliver their Well-wishers, without so heavy a Composition as the City paid. Another Relation there is, of a certain *Italian* Monk, who hearing what danger *Rome* was in, hasted to the Siege, and laboured to persuade *Alarich* to preserve the City. To whom he answered, that he was willing so to do; but that there was one who continually was importunate upon him, and urged him to destroy it. If this be true, it came from a stronger hand than was that of *Zosimus* his Gods.

55. But in the mean time, *Constantine* the Tyrant, who domineered in *Gall*, sent some Eunuchs to *Honorius*, to beg his pardon, that he had received that Dignity which was conferred on him. For he professed, he did not take it upon himself, but was forced to it by the Soldiers. *Honorius* considered, that so long as *Alarich* with his *Barbarians* pressed so hard upon him, he could not think of any other Wars; and he had a respect to the safety of his Kinsmen, *Venerianus* and *Didymius*, kept Prisoners by the Tyrant, so as to consent to what was done, and to send him the Imperial Habit; though he was deceived as to his Kinsmen, who were put to death before the coming of the Messengers. The Senate and People at the same time found as great reason still to be concerned for their own safety, which was far from being sure, or established, the Emperor having neither given up the Hostages to *Alarich*, nor performed other Covenants. The Senate therefore made choice of *Cecilianus*, *Attalus* and *Maximianus*, to represent the sadness of their condition to him, by shewing what they had already undergone, and what they must still expect to suffer. But whether *Honorius*, for that he had taken off one Enemy, by consenting to the promotion of *Constantine*, was grown high and secure; or, as *Zosimus* saith, was governed by *Olympius*, who disturbed all things, and hindered whatever was just and fitting, he sent back the Messengers without any satisfactory Answer. But having removed *Theodorus* from the Præfecture of the City, he gave the place to *Cecilianus*: and *Attalus* he set over the Treasury. *Olympius* still bent his whole study and endeavour to find out such as he imagined to know any thing of the Affairs of *Stilicho*, and now called to account *Marcellianus* and *Salonius*, two Brothers, and of the Emperor's Notaries. He delivered them up into the hands of the *Præfēt Prætorio*, by whose order, their Bodies were rent and torn with Scourges; but nothing did they offer to promote *Olympius* his Design. *Honorius*, convinced now that the City was

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Secret. l. 7. c. 57.
Sicem. l. 9. c. 7.

Zosim. 2. 8. 18.

Honorius sends the Imperial Habit to Constantine the Tyrant.

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in no good condition, thought fit to send for five Regiments of *Dalmatians* to defend it, in which were contained six thousand Men, esteemed the Flower of the *Roman* Army, both in respect of their courage, and their extraordinary strength and stature.

56. *Valens* their Commander, thinking it below the wonted courage and resolution of the *Romans* to shun any paths or ways because they were feiced, and held by the Enemy, fell into the hands of *Alarich* and his Men, who waited for his coming; and scarcely one hundred escaped, amongst whom was *Valens* himself, who with *Attalus*, sent by the Senate as a Messenger to the Emperor, came late into the City. Now greater mischiefs still following one another, when *Attalus* entered *Rome*, he discharged *Heliocrates* of that care, which by order of the Emperor, had by means of *Olympius* been imposed upon him. His Employment was to search after, and enquire out the Estates of those who had been proscribed upon the account of *Stilicho*, and bring them into the Treasury. But being a Man of a moderate temper, and thinking it impious to insult over miserable people, he enquired not strictly into the matter, but privily sent to many concerned, to conceal their Goods as much as they could; whereupon as good for nothing he was sent away to *Revenna*, to suffer in the room of those he had delivered; and had been put to death, but that he betook himself into a Church of the Christians. As for *Maximian*, he was taken by the Enemy, and was redeemed by *Masrianus*, his Father, with thirty thousand *Aurei*. But still the Emperor deferring the Ratification of the Peace, and not making good the Covenants, the *Romans* could not freely, and without attempts made upon their Persons, go out of the City. With this the Senate was so moved, as to send their Messengers again to him to persuade him to embrace the Overtures; and amongst them was the Bishop of *Rome*, with whom were sent some *Barbarians* by *Alarich* to secure them on their way, which the Enemy had very where beset. While they were on their Journey, *Attalus*, who, as was said, was sent for by *Alarich*, passed the *Alpes*, which extend themselves from *Pannonia* towards *Venetia*, or the *Julian Alpes*, so called. When he was come into *Venetia*, *Honorius* finding he had no numerous Forces, drew out all the Soldiers out of the Towns, and commanded them to oppose him, and hinder his conjunction with *Alarich*; which they did so effectually, that of the *Goths* they slew fifteen hundred, with the loss but of seven Men. In the mean time, the Eunuchs at Court fell foul upon *Olympius*, and accused him as Author of all the Inconveniences under which the Empire at present laboured, and prevailed so far, that he was discharged of his place; which being done, that no greater mischief might happen to him, he fled away into *Dalmatia*.

57. The Emperor now made *Attalus* Præfēt of the City, and in his place set *Demetrius* over the Treasury, with design that he should diligently enquire into whatever might belong to it, that nothing might be concealed. Several Officers he turned out, and preferred others, as he pleased, amongst whom was *Omerius*, to whom he gave the Command of all the *Dalmatic* Soldiers, and besides them, of all that lay in Garrison, through the upper *Pannonia*, *Noricum*, and *Rætia*, as far as the *Alpes*. This *Generikus* was a *Barbarian*, but every way virtuously inclined, and most free from covetousness, who still adhered to the Rites of his Forefathers, neither would be drawn from the worship of the Gods. But of late there had been an Edict published, which forbade any that was not a Christian to wear the Military Girdle at Court. Obligated by this Law, he, who also had a Command in *Rome*, layd by his Girdle, and quietly kept himself at home. The Emperor required, that he who was an Officer should attend at the Palace according to his Rank and Place. To this he answered, that there was a Law which forbade any one to wear the Girdle, or be capable of any Employment that did not profess the Christian Religion. *Honorius* replied, that the Law should indeed bind others, but not him who had done such services for the Commonwealth; but he persisted, that he would not receive any advantage in that which tended to the injury of all other persons concerned; neither would he attend any business, till the Emperor, compelled by shame and necessity, repealed the Law in all respects, and made it free to any one to hold his Opinion, together with the Employment he had before enjoyed. Beginning with this magnanimous Act, he kept his Men in continual Exercises, and furnishing them with Conveniences, suffered none of their Provisions to be drawn off to other uses, as had been ordinarily practised. Nay, of his own allowance he gave rewards to such of them as best deserved. And be-

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having

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The Soldiers
mutiny at Ravenna.

§ 8. In the mean time, the Soldiers that quartered at *Ravenna* fell into a Mutiny, and possessed themselves of the Haven: which done, with a confused noise, they required, that the Emperor should come to them. He thought not fit to venture his Person: but *Fovius*, who was advanced both to the Dignity of *Prefectus Prætorio*, and of *Patrician*, taking along with him *Ellobichus*, the Comes *Domesticon* Equitus, went to them, and pretending to be ignorant of the cause of their uneasiness, though he himself was reported to be Author of it, demanded what had provoked them to such a Seditious Act. They required that *Turpillio* and *Vigilantius*, two Officers in the Army, as also, that *Tarentius*, the *Propositus* *Cabuli*, and *Asicius*, that was next to him, should be given up into their hands; and *Honorius* durst not deny them, for fear of a Revolt: so that the Officers were condemned to Banishment, and, in order to their Exile, carried on Ship-board; where they were made away by order of *Fovius*, left, returning again, they should discover his practices against them, and procure the Emperor to punish him for it. As for *Tarentius*, he was banished into the East; and *Asicius* was commanded to keep himself at *Milan*. Into the place of *Tarentius*, was *Enfibus* promoted; the Command of *Turpillio*, was bestowed on *Valens*; and that of *Vigilantius* on *Ellobichus*: by which the Mutiny now seemed to be appeased. *Fovius*, the *Prefect*, having got all the power into his own hands, resolved to send to *Alarich*, to come as far as *Ravenna*, in order to a Treaty. *Alarich* so far complied with him, as to come to *Arminium*, at but thirty Miles distance; and thither *Fovius* speedily betook himself: and, having lodged and contracted Friendship together, they fell into discourse about the matter. *Alarich* his Demands were, that a certain sum of Gold, and a quantity of Corn and Provisions might be yearly paid him; and, that both the *Penetie*, with *Noricum* and *Dalmatia*, might be assigned to him and his Men to inhabit and possess. These Propositions were sent away, in the presence of *Alarich*, by *Fovius*; who, in other Letters, written apart, advised the Emperor to make *Alarich* a *Magister Urinque Militie*; thereby to sweeten him, that he might remit something of the harshness of the Terms, and consent to a Peace upon more tolerable and moderate conditions.

§ 9. The Emperor blamed the rashness of *Fovius*; and wrote him word back, that, as for the quantity of Gold and Provisions, he might be an equal Judge in that point, having, as *Prefectus Prætorio*, opportunity to be thoroughly skilled in such matters: But, never would he grant the Dignity, or Office, of a *Magister Militum* to *Alarich*, or any of his Nation. *Fovius*, having received the Letter, did not read it privately, and to himself, but audibly in the hearing of *Alarich*, who was not moved at any other of the Contents, but fell into a Rage, when he found, that such a Command should be denied to him and his Nation: and, he commanded his Barbarians to make ready to march to *Rome*, to be revenged for the Affront offered to their whole people. *Fovius* being quite put out of his way by those unexpected Letters, knew not what course to take; but, to *Ravenna* he returned: where, to reingratiate, and make full amends for what he had done, he resolved to overdo; and obliged *Honorius* by Oath, that he would never make Peace with *Alarich*, but wage War perpetually with him. This done, he himself touched the head of the Emperor, and also took an Oath to the same purpose; which he exacted, moreover, from the rest that were in Place and Authority. In order to this extravagant Resolution, the Emperor procured an Aid of ten thousand *Huns*; for the succour of whom, he caused Corn and Cattel to be brought out of *Dalmatia*. And he sent out some, to spy and discover what way it was that *Alarich* took against *Rome*; gathering, in the mean time, together all his Forces. *Alarich*, by this time, repented of his purpose of attacking it; and procured the Bishops to go to *Honorius*, and advise him by his neglect, not to suffer that City, which, now, for more than a thousand years, had reigned over a great part of the World, to be wasted by Barbarians, nor such beautiful Buildings to be burnt and defaced; but rather, submit to some very moderate Conditions. These were, not to enjoy the Dignity lately mentioned, nor the Provinces to be given up to inhabit; but only, both the *Noricum*, that lay upon the utmost part of *Ister*, which were subject to continual Incurfions, and paid a very slender Tribute. For Provisions, he would submit to such proportions as the Emperor himself should think fit, and fully quit his Demand of Gold: desiring, that betwixt him and the *Romans*, a Friendship and Society in War might be contracted, against any one that should

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Sec. 2. take Arms, or move, against the Commonwealth. These things so mildly and modestly did *Alarich* propound, that all men admired his Temper. But, *Fovius*, and the rest that were next about the Emperor, alleged, that they could not be granted, because all in Office had taken an Oath, never to make Peace with him. And, if you will believe *Zosimus*, they gave this reason; because, if the Oath had been made to God, possibly it might have been neglected; by permitting to the Divine Benignity the Pardon of such Wickedness: but, having sworn by the head of the Emperor, it was not lawful for them to go against so heavy an Oath. So cautious, faith he, were the minds of these men, who (though without the care of God) governed Affairs at that time. And so he concludes the fifth Book of his History.

60. *Alarich* therefore finding himself abused, with his whole Army marched for *Rome*, resolved to do his utmost in the Siege thereof. At which time came another Messenger from *Constantine*, out of *Gall*; one *Fovius*, a man of excellent Learning and Endowments, to ratify the former Agreement, and to ask Pardon for the death of *Didimus* and *Verecundus*, the Kinsmen of the Emperor; who, he pretended, had been put to death without any Order received from *Constantine*. Finding *Honorius* in a great passion at the mention of their death, he told him, he should do well, if, now entangled so much in the troubles of *Italy*, he gave some way to the time. And, if he would grant him leave to go back to him that sent him, and to make known the condition that *Italy* was in; he would shortly return with all the *Celtick*, *Spanish* and *Brittish* Forces; and bring relief both to the City, and the Country about, *Rome*. With this Proposal, *Fovius* obtained leave to depart. *Alarich* being come to *Rome*, threatened he would take it by force, except the Citizens would joyn with him, and make War against *Honorius*. They sticking hereat, he laid Siege to the City: and, proceeding on to the Haven, after he had spent some days in the Attack, he became Master of it. Now he had all the Provisions in his power; and threatened to spend all upon his own Army, if they did not presently submit. Hereupon, the Senate assembled; and, after a full debate what was to be done, they consented to what *Alarich* had propounded; for, death stood at every man's door, neither was there any way of evading it, no supply of Provisions coming in from the Port. Therefore they thought fit, after the receiving of his Ambassadors, to invite him to the City; and, according to his Commands, they placed *Attalus*, the *Prefect* of *Rome*, in the Imperial Throne, adorned with Purple, and a Crown about his head.

Rome again
yielded to
Alarich.

The Citizens
make Attalus
Emperor.

61. This fine man thus promoted, could not but, out of his great stock, be liberal to others. He presently declared *Lampadius*, *Prefectus Prætorio*; and *Marcianus*, *Prefect* of the City. As to the Army; he gave Command of the Horse to *Alarich*, and of the Foot, to that *Valens*, who had been Captain of the *Dalmatic* Legions. *Aulus* (as *Sigonius*, out of some other than the Vulgar Copy, informs us) he made Comes *Domesticonum*, and designed *Tertullus* *Consul* for the following year: and having bestowed the rest of the places, was accompanied by a Royal Attendance to the Palace, though many ill Omens happened, as to his success. The day after, he entered the Senate, and there made a speech full of Arrogance; affirming, that he would bring the World into subjection to the *Romans*; and, he bragged of other matters; for which, perhaps, the Divine Power was angry with him, and not long after, as our Author hath it, turned out the man. But, however, the *Romans* were mightily pleased, having obtained such Magistrates as understood their business; and they took most pleasure in the Honour conferred upon *Tertullus*, the *Consul*. Only, the Family of the *Acicii*, who seemed to carp at all things which tended to public good, were against it; for, possessing the greatest Estates, they could not endure the public Felicity, as *Zosimus* calls it. *Alarich* now advised *Attalus* to send away convenient Forces to *Africk* and *Carthage*; and, by that means to turn *Heraclianus* out of that Government; that, being obliged, as he was, by his duty to *Honorius*, he might give no interruption to his proceedings. As he, by nothing esteemed this wholom Counsel; but, as, even, *Zosimus* acknowledgeth, trusting to his Prophets, or Sooth-sayers, (at another time) was perwaded, that that Country would fall into his hands without a stroke. He neglected therefore, to send *Dumas*; who, with those Troops of Barbarians which he commanded, might easily have defeated *Heraclianus*. And, despising the advice of *Alarich* the second time, gave the Command of the *African* Forces to one *Constantine*; and sent him away, slenderly provided.

Who fully
manages his
Matters.

62. While all men expected what the issue of this would be, *Attalus* undertook
an

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Tertullus em-
braces the Em-
peror in new
troubles.

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the manners of this Age, that there being no trust to persons of other conditions, the Emperour required them in several cases to interpolate themselves, as presumed most conscientious, and as having some authority and awe amongst the People. These and some other things of religious Concernment did Honorius enact in one large Constitution, directed to *Cecilianus* the *Presbiter*; and, as we may conclude, at the desire of the Messengers sent the second time to him from the Senate, amongst whom *Innocentius* the Bishop of *Rome* went to lay open to him the great pressures and grievances under which they groan'd.

70. Another grievance we find at this time, of which the People had sufficient reason to complain, which was represented to the Emperour by some other means than this Message, the Law for redress of it not being inscribed to *Cecilianus*, but to *Theodorus*, his Predecessor; 'although in the Chronology of Laws it be placed after that large Constitution which to him is directed. It was too ordinary a practice for such as had a design to marry, for their convenience, or according to their liking, when they could not have the consent of the Parents (the true order of proceeding according to Law) to betake themselves to the Prince by Petition, and pretending to have the consent of the Woman, to procure him to interpose his Authority, and by a clandestine or surreptitious suggestion, obtain what else they desired ever to accomplish. Now such kind of Marriages he prohibits by vigour of this Law, Matrimony certainly being to be contracted by the consent of both parties, and of the Parents; and, of it self, of such a nature as ought to come easily on, and of its own accord without any Rescript or interposition of the Emperour. Such Rescript obtained shall be understood to be surreptitious, and the who afterward shall obtain it, shall suffer loss of Goods and Deportation; his Sons born in that Wedlock shall be illegitimate, and all hope of pardon is utterly cut off. But in case a Sutor hath had the consent of the Woman and her Parents, the Rescript of the Prince may be obtain'd for confirmation of the Marriage; for that hath been already betrothed, may justly be demanded, as also the four-
th of those *Arre* or Presents which had been made to her, upon a breach, as the Law directed. Moreover, by other Laws, certain sorts of Marriages otherwise forbidden, might be allowed by the Rescript of the Prince; as that of a Woman with her Tutor or Guardian, if the Emperour approved of his manners and integrity, as to the management of her Estate. Moreover, by his Authority Matrimony might be contracted with a person of unequal Degree and Dignity. And so might that betwixt Cousin-Germans, or those of the fourth Degree, as *Honorius* here terms it, (in a transversal line) which his *Father of triumphal Memory*, as he words it, did not forbid any to procure by way of supplication; though he forbade it otherwise.

Marriage of
Cousin Ger-
mans, how ap-
proved and
disapproved.

71. That *Theodosius* did forbid the Marriage of *Cousin-Germans* is very certain from many testimonies, although the Law it self be not now extant in any of our Books. And he seems to have forbidden it for this reason, that he that hath to do with his *Cousin-German*, hath to do, as it were, a Brother with his Sister, they being in the next degree, and as little different as can be from really such. It's thought also that the punishment he inflicted upon Offenders against that Law, was no less than death, and particularly by Fire, as also the loss of Estate, as was wont in case of incest. This rigour his Son *Arcadius* thought fit to mitigate the year after his Father's death, inflicting upon the Offenders only confiscation of Estate in certain cases, as where there were none to succeed them by right of inheritance, the children of this and other incestuous conjunctions (so he makes it) being made incapable of receiving any thing from the Parent. And upon farther thoughts, at length after eight or nine years, he judged this Marriage good and legitimate enough, and, as such, by another Law did declare it: of which opinion *Justinian* was also afterward, and made it good by inserting this Law into his Code. However, in the West, *Honorius* still had observed his Father's Constitution, though his Brother was so uncertain in his Determinations; and, as he did not repeal the Law, so he now thought fit to allow of that mitigation that the Author himself made, by permitting a Dispensation to be obtained by a Rescript. Indeed, the Law and Practice, both, as to this matter of Cousin-Germans, have been various in several Ages. There was no Law against this Marriage, till that of *Theodosius*; but St. *Augustine* informs us, that seldom was the liberty made use of, being generally abhorred. Some did it, but it was disapproved by the Generality; which, even, in those days, by practice, seems to consent to the opinion of the Canon Law; which approves not of the Marriage of Cousin-Germans, because they are in the

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*Quoniam si nup-
tiae in Religio-
nis personis
cod. Theod. lib.
10. l. 1. cod.
Theod. lib. 12.
hinc interpretat
ur.*

*L. 2. de incestu
Nuptiis Cod.
Theod. lib. 12.*

*L. 12. de Nu-
ptiis, Cod. Theod.
lib. 1. tit. 4.*

*De civilibus Dis-
t. 15.*

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second Degree. How lawful, or unlawful the thing may be in it self, the common practice of it, at least, is not expedient: the world being wide, and affording more conveniences than can be found in so near a Relation. And it tends to weaken, if not untie the Bond of humane Society, for preservation whereof, that *Father*, as well as for other reasons, will have Marriages of the nearest Relations to have been prohibited in ancient times. Were this encouraged, and ordinarily practised, Mankind would not only be distinguished into several Nations, as necessarily it must, but every Nation, nay, every Town into certain Clanns and Parties, whence would proceed narrowing of interests, a cantoning of the publick, and an alienation of affections, and such effects as follow enmity and contention, rising from estrangedness in conversation.

72. But while Italy was so much endangered by *Alaric*, one thing there was discovered in *Africk*, which, if permitted, would have brought that Province also into farther danger. It had been an ancient custom, that the Lands that lay upon the Borders or Limits, were assigned to the *Limitaneus* Soldiers, or such as served for defence of the Borders; and with this condition, that if their Sons were Soldiers, they should then enjoy them; but if they were not, they should not return into private hands. But now *Honorius* discovered, that so far some of those in *Africk* were in private hands, that they who enjoyed them, did not perform the service for the end of which they were granted over. They had, he saith, been granted by the humane provision of the Ancients for the care and defence of the Limit and Ditch, or that he calls *Fossatum*, to the Soldiers that had the name of *Gentiles*, or such as being Strangers of other Nations, served the Romans in the Army; being much the same with the *Levi*, lately spoken of. But he found that they were held by others, whom now he obliges to the same duty about the *Fossatum*, and defence of the *Limit*, as Antiquity had obliged the former Possessors. Otherwife these Lands shall revert to the *Gentiles*, if they may be found; if not, they shall be conferred upon the *Peetane* Soldiers with the same Burthen, that Provision may be sufficiently made for the Defence of the Borders of the Empire. These Borders, as we have already said, were either naturally fenced by Seas, Rivers, Mountains or Woods; or else by Ramparts made of Wood, Stone, or Earth, which they called *Limitis*, or by *Ditches*, or *Trenches*, which they termed *Fossate*, so as also Castles sometime are called, because fortified by such *Fossae* or Trenches. Now whereas these Lands were given with a condition of Service to be performed; could not be transferred upon private persons, but according to the same condition, and might not descend to Sons, except they submitted to the same service of fighting, and defending the Borders, they much resemble those granted in *Fee*, as we lay at this day. And some have been of opinion, that the Laws of the *Fœda* hence took their original, of which more largely we speak in the History of the *Lombards*. As for this Law, it is directed to *Gaudentius*, as *Picar* of *Africk*, if *Comes* rather be not to be read, the place of whom he exercised in that Country eight years before; and things of Military Concernment, as this is, belonged to his Inspection. The particular reason that urged the Government to the greater care of the Limits, and the making of it, we may take for no other than the danger that *Africk* was now in from the attempts of *Attilus*, of which ere while we heard sufficiently.

73. The Affairs of *Honorius* were now but in a mean condition in *Gall*, where *Constantine* and the Barbarous Nations had carried all before them. Yet we find that he had some good footing still in that Country; for there *Claudius Posthumus Dardanus* was this Year his *Præfectus Prætorio*, a person of great Note, and very well known to the Learned and Religious Men of this Age, who, though he bore twice that Office, had little to do; and had leisure enough to employ his time and charity in making of High Ways, and fencing them with Walls and Gates, as he is commemorated in an old Inscription; yet there is extant one Rescript directed to him concerning the *Principales* of *Cities* and *Municipia*, determining how long they shall hold their places, what persons shall be elected, and concerning the Privileges of the second of them in order. As for the time, he requires fifteen years wherein to attend the service of the Courts, and the Emperour; a great part of their charge consisting in their adjusting and levying of Tributes. And all those that had within six years receded from the Employment, he will have forced back. He thinks this a sufficient Incentive, that having once served their time, they were to be rewarded with such Honours; as with the Dignity of *Exco'mitter*, freedom from Employments, and from Torture. For the persons

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*Quoniam gentes
que Gentilium
propter, &c.
L. 2. de servis li-
beris, Cod.
Theod. lib. 7. tit. 15.*

Care taken for
defence of A-
frick

How the Em-
perour's Af-
fairs stood in
Gall

*L. 12. de Decur-
tionibus Cod.
Theod. lib. 1. tit. 4.*

Se^ct. 2. he will have such elected, as are most qualified for the place; Men of greatest Integrity and Ability. In conclusion, he will have such as held the second place, if they have well behaved themselves, and by reason of Age or Infirmary are not able to discharge the Office of the first, notwithstanding to enjoy the same privileges and advantages.

How in the
East at *Constanti-*
nople.

74. While *Theodosius* and his Officers were thus employed, and had their hands full in several respects at *Revenna*, they at *Constantinople* were sufficiently at their ease; though *Anthemius*, the principal Minister, omitted nothing he found to conduce to the publick security. He found at the beginning of the Year, that the City of *Constantinople* was in danger to want Provisions, by reason that the *Navarchi* or Seamen, who had been appointed in the *East* to fetch Corn from *Alexandria*, were fallen to decay; the Company not being able to prosecute Navigation as formerly, but hovering about the *Ilands*, and looking out for Vessels when they should have been in their Voyage. This moved him to bethink himself of the Mariners of *Alexandria* and the Fleet of *Carpathus*, or belonging to the *Cyclades*; which were much nearer to *Constantinople*, and far more convenient for the Design; and having communicated the matter to the *Præfectus Augustalis*, and the *Præfident* of the *Ilands* (for they made up one Province under the mediate inspection of the *Proconsul* of *Asia*) he resolved to transfer the charge upon them with a stipend out of the Tributes of *Alexandria*. Having a stipend for their Work, he thought fit they should be answerable for Wrecks, or other Miscarriages, which could not happen but by their own fault; as if they neglected their time, or went out of their way, as those, who conveyed the Species belonging to the Treasury, often did; and thereby suffered Shipwrack upon the Shallows, which this very Year *Theodosius* made Capital for the great inconvenience such carelessness procured. What *Anthemius* had thus established, he procured now an Edict directed to himself for its confirmation. And shortly after another for the choice of those Officers called *Disjunctors* and *Inspectors*, who having to great influence into raising of Tributes, it was fit they should be persons of Quality and Experience. *Theodosius* commands, that when there is occasion to use them, "such be chosen from amongst them that have been *Vicars* of *Dioeces*, (as of *Asia*, *Pontica* or *Thrace*) or *Comites* of the *East*, or *Præfecti Augustales*. And he is to refigure herein, that he declares, a Rescript obtain'd for the executing of "such persons. shall be of no force at all."

The tender
Age of that
Emperour a-
bused.

And his Authority asserted.

75. The tender Age and Minority of this Emperour gave (as is usual) encouragement to some sorts of People to ask beyond the Bounds of Modesty and Decorum. Some had been so bold, moved by Covarice or other incentives, as to chok up his very Palace with private buildings. For reformation hereof an Edict was directed to *Monarchs* the *Præfict* of the City, which being designed to check the irreverent and lawless behaviour of such Men, is more full than ordinary of expressions, which affect the Grandeur and Majesty of the Prince. Affirming that the Palace is not to be straitned with the Walls of private persons; it backs the affirmation with a farther assertion, that a great distance ought to be kept betwixt the Emperour and all such persons. He declares therefore, that such only shall have the liberty of living within the Palace, as are useful to his Majesty, or serviceable to the Commonwealth; which two sorts of Men (either Palatine Dignities, or Officers of State) at this time we find to have Lodgings in the Emperour's Court. "It had been for some time (since Christianity introduced more severe practice) a question whether Judges of Provinces ought to go to the *Speculaula*, or be present at the ordinary Plays and Shews. This Emperour now in order to solving of it, admonisheth them to be present at them, that thereby they may procure the favour of the People; but he expressly charges them, that they may not exceed the value of two *Solidi*, in the expence which they were wont to bestow on the Players, or them that were Victors in the Game. "There were Games in the Provinces celebrated by the Ordinary Judges, and also by the Priests of the said Provinces; the Judges exhibited them at the Charge of the Common-wealth, or by virtue of a Collection made from the *Civiles*, *Citizens*, *Principales*, and *Possessors* of Lands; but the Priests of the Provinces at their own proper Costs and Charges, to answer which, they had great Privileges and Advantages granted them by the ancient Laws. These Priests had the names of *Alyarche*, and of *Syrarche*, *Alyarche*, and others, according to the Countries wherein they had to do. But those of *Antioch* were called *Alyarche*, either from the Sergeants or Bearers of Rods, whom the *Elcans* called *Alyta*,

Sect. 2. as *Cynicius** believed (who observes, that it was in old time permitted to this *Atyarcha*, to cut down one Cyprus Tree out of the Grove of *Daphne*, which was afterward exchanged for a pound of Gold:) or else, as *P. Faber* thought, from *exulting or rejoicing; which Interpretation the word will bear. But there was a Priest called also *Atyarcha*, of the City of *Pisa*: and all these *Theodosius* excerpts from the Rules he gives for regulating of the Expences of the *Fudges*, they being otherwise considered for their Charge.

A Dearth at
Constantinople
drives the
people into a
Sedition.

Care taken for
a Supply by
making a
Stock

75. But, still greiv'd for scarcity continued at *Constantinople*, as often happened, by reason of the vast Confluence of people thither; so that *Egypt*, though taken from *Rome*, and appropriated to its Service, was not able, in some years, to supply it. So forcibly it pressed upon the Common Sort, that it drove them into a tumult, in which they fired the House of *Monaxius*, the *Profect* of their City. This pain and others upon serious Consultation, what was to be done in such cases; and, by the liberality of Senators, and other persons, a Stock was raised of five hundred pounds of Gold, or thirty six thousand *Solidi* (which afterwards was increased to fix hundred and eleven pounds of Gold, or forty three thousand, nine hundred and ninety two *Solidi*) wherewith to buy Corn, for a Supply of such Extremities. For the due management of this Stock, the *Rescript* requires a due Account of the laying out of the Mony, and the Improvement that is made by the Sale of the Corn at such moderate prizes as shall be thought convenient, before the *Profect*, or *Monaxius*, to whom the Law is directed; who, having received it publicly, and upon Record, shall make a Report thereof to the *Senate of Constantinople*; which shall judge of it, as having reason to be most concerned, the thing having proceeded from its liberality. Then doth it prohibit any of this mony to be put to other uses, though by the Authority and Intervention of the *Profect* himself, under pain of restoring the double. In the last place, it declares, that none are forbidden to buy or import Corn, provided it be for their own private use. " Otherwise, it seems to dislike the practice; it being probable, that the poor people would be worse used by such as bought to make a Gain of it, than by the Publick, which had destinated this Stock to be employed for their Relief.

*Theodosius take
care for his
Revenue.*

But also, to remove Grievances about it.

77. The Necessitys of the Empire, both in East and West, had, of late years, been so great; that the Provincials were, more than usually, burthened with Taxes. And, as the Stubbornness of some persons gave Original to those Officers called *Compulsors*; so the rigidness and severity of these Officers became sometimes so extravagant, that many sought to evade their Power, by obtaining leave to pay their Tributes in themselves: and such, from doing the Duty themselves, they called, in Greek, *Autopatri*. But, as in those giddy times, which ushered in Ruin and Confusion, all sorts of persons were Excentrick, and acted in Tracts beside the Paths of Vertue and Moderation; whereas, Men of Quality and Goodness, it might justly have been expected, would have made good use of this liberty; and, rather expressed a sense of Gratitude, and what they pretended, have rather increased the Revenue; it proved quite otherwise; inasmuch, that both *Honorius*, in the West, about this time; and now *Theodosius*, were constrained to abolish and prohibit this Indulgence, and revive the solemn and usual Course of exacting the Tributes by *Compulsors*, to be made out of the *Chrieles*, or *Apparitors*, as the ordinary Course had been. He only excepts such as *Antemius*, the *Præficus Prætorio*, should approve of, as fill excepting this new favour, and make report of the same to himself. And, as for the Emperors, or such as about them composed the Laws, trustfully may be said, that, in their Edicts they keep generally an even temper; providing so for the payment of the publick Revenue, as to prevent without all the harrasing of the people by the covetous practices of Officers. At this time *Theodosius* made it capital, as we said, for those that brought over the Corn, or other Materials, by their carelessness to make Ship-wrack upon the Shallows. By the same Constitution, he also took care, that the Prosecutors of Gold, as they were called, or such as brought it to the Treasury, should not presume to act, or keep the Gold in their hands, without Warrant had from the *Comes Sacra-rum Largitionum*. But, if any one will complain, that he is overcharged or wronged in Payments; he bids him go boldly to the Judge, and lay open his Grievs: who, if he do not hear and relieve him, shall pay a Fine of thirty pounds of Gold, and his *Apparitor* another of fifty. Why the *Apparitors*, or Officers of Courts, should be more heavily fined than the *Judges* we have already shewn.

78. Yet still another Grievance, they that governed the young Emperor thought

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* Sic dicitur
quod ludis q
sunt in hono
rem dierum
τοῖς αὐτοῖς
id est Masfig
phoris praeft
antibore Phay
rino. Guf. lib.
c. 13.
* αὐτὸ αὐτοῖς
quod signific
latius exulta
rellire.

L. J. de France
to nois Con.
Cod. To lib. 14.
tit. 16, Dat. 6.
Cal. Mail. Ab
ut Historic. a
Cod. 728.

L. 4. Ne Const.
onis translatio
postuletur, Cod.
To. lib. 11. tit.
22. Dat. 4. Cal.
Jan.

Luv. de Ari
publici praef
toribus, Cod. T
lib. 12. tit. 7. 3
L. 1. Cod. Inst
cod. tit. Dist. 1
Cal. Aug.
L. 2. de Offici
Civilium Ju
dicum Cod. Jus
lib. 1. tit. 45.

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fit to remove at this time : and that was practised by the *Vicars* and *Proconsuls* ; who, ruling Dioeceses, and so having several Provinces in their power, were wont, for the Celebration of Games and Festivals, to cause to be conveyed the *Curule* Horfes, and Chariot-drivers, from one to another. This, now, is forbidden to be practised, in another Constitution, directed to *Anthemius* ; both because the Countries were put to charge, and it hindered the mirth of the Cities, or else they, when they were taken, must provide themselves elsewhere." But, a greater mischief sometimes happened in *Egypt*, which, beginning there, failed not to extend it self as far as *Constantinople* ; and it was now the time of the Year to take care for the prevention of it. The Reader, I presume, is not ignorant that that Country is rendered so fruitful as it is, by the overflowing of the River *Nile*, and the derivation of the Waters thereof into its several Quarters. About the rising of the Dog-Star, when the Sun begins to enter *Leo*, it begins to swell, towards the middle of *July* ; and continues rising in *August* and *September*, till about the Sun's Transite into *Libra*. The *Egyptians* reckoned the beginning of their Summer from the beginning of its Increase, and of Autumn from its Decreal : they sowed their Ground in *November*, and reaped in the Month of *May*. If the River rose not up to above twelve Cubits, a Dearth always followed, except in one year, which was accounted prodigious. If it exceeded sixteen, Scarcity also happened ; the Ground being too much soaked, and the Water standing solong in it, as to hinder Sowing. Now, to promote a due Rise and Increase of Waters, the Inhabitants were not wanting by their Arts. In some parts indeed, the River was kept in, and fenced, by natural Ramparts, and its also laid, by Swallows, for almost the length of a Furlong ; which Birds, some say with Straw and Sticks, and others by Stones called *Calores*, were wont to make Nests against it ; and effect that which neither Nature, nor the Art of Man procured ; with such pains and industry, that many of them yearly perished in the Service.

79. How certain the Intelligence of *Pliny*, or others, is, as to this matter, the Natives did not fail to stop up the River on all sides with Artificial Banks and Ramparts, till it had increased to its just proportion ; and not till then to cut them, or let it out into their particular Fields. And there were certain Officers which watched and observed them, that none might cut Passages, or open Sluces before their time, till the full height was discovered in a Well, which had on its sides the several marks of Increase and Decreal, once in the Temple of *Serapis*, at *Memphis* ; afterward, by *Constantine's* Order, in a Church : where again it was appointed, after that *Fulian* had altered the place as before. Now, it was an high Offence to cut down any Sycamore Trees, which were wont to be made use of for these *Aggeres*, or Ramparts ; but especially, to cut the Banks, or open any private Sluces before the time. Against which *Theodosius* now shews himself so severe, that no less a Punishment than burning alive he will have inflicted upon the Offender, in the place where the Offence is committed ; there where he violated the reverence of Antiquity, and, in a manner, the publick Security, as he words it. " For indeed, the publick Security was endangered, when by this or other means it happened, that *Constantinople* could not be supplied with a sufficient quantity of Corn. The Accellaries to the Fact, he condemns to Deportation to *Oasis*, without all possibility, by petitioning, to recover their places of Citizens, their Dignities or Estates. There were two or three places in *Egypt* which had the name of *Oasis*, but only one, where they will have these Accellaries to be without hope of Redemption ; which being, in a manner, as bad as death. *Tribonian* omits to mention this to *Oasis* ; but only, Deportation in general. For, the place was, in a manner, pestilential, by reason of the unwholesome Winds ; and so pestered with Gnats, and the greater sort of Flies, that thence the banished persons often got their death, as *Cicilius* hath observed. Therefore, by another Law, *Fulstian* ordained, that Persons convicted of Crimes should be banished for one year at farthest, into *Gyphis* or *Oasis* ; and that only by the Magistrat of *Alexandria* and *Thebais*.

80. *Theodosius*, or rather *Anthemius*, shewed himself so much for Merit and Industry at this time, in the same Constitution, as to determine a Question concerning Precedence betwixt those who, by virtue of the Emperor's Letters or Codicils, were promoted to such a Dignity or Degree of Service, *per salum* ; and them that had arrived at it by their own Labour, and Continuance in the Employment : so as the latter shall precede the other, though made equal in time by the Codicils, and that

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L. 2. de Secl. cal. Cod. Th. lib. 15. tit. 1. §. 1. L. 1. Cod. Just. lib. 1. tit. 1. §. 1. Aug.

Vide Modestini Adm. v. N. i. §. 1. de Vili Aggeribus non corripendis, Cod. Th. lib. 5. tit. 3. L. 1. L. 2. L. 3. Cod. Th. lib. 10. tit. 1. §. 1. L. 1. Cod. Th. lib. 10. tit. 1. §. 1.

Lagerzphi Constantin.

Vide Celsus, lib. 1. de Officiis, lib. 1. tit. 1. §. 1. L. 1. Cod. Th. lib. 1. tit. 1. §. 1.

De multis con. traria Olympi. d. in excu. tis. L. 1. de Feni. Cod. Just.

L. 1. de In. lib. 1. tit. 1. §. 1. L. 1. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. Cod. Th. lib. 1. tit. 1. §. 1.

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that, according to the distance of three years. " They were very kind to the *Duum-viri*, or Magistrates of *Antioch* ; who, being exhausted with the Charge of setting out Games and Pastimes, according to the Custom and Dignity of that great and noble City, they supplied with a Summ of six hundred *Solidi*, granted out of the Customs. This was devised by *Anthemius*, and confirmed by an Edict directed to him for that purpose. " To the *Palatine* Officers they granted back, by another Branch of this Constitution, the Exaction of the Tributes belonging to the *Largitiones* ; which had been taken from them, and the *Agentes in Rebus*, by a Law of *Theodosius* the Great. " Which his Grandson now repeals, as it concerns only the *Palatines* ; though the former Law was approved by *Tribonian*, preferred before this, and put into *Fulstian's* Code. But, the hands of the Emperor and his *Præfæ* being now in for making Acts of Grace and Indulgence to the people, they extended part of this favour to the *Provincials* of the East, and of *Egypt*, that they might not be too much burthened by the money they paid in lieu of the *Annona* or Provisions to Military Families. For the Convenience of the Soldiers, Meat had been changed into *Mony* ; and, whereas there had been no certainty of time, but the custom varied in several places, the *Provincials*, by being too early called upon, might be brought to too great Inconvenience. It was thought fit therefore, to appoint, that the Collection or Payment of one Indiction or Year should not be paid in the same Year or Indiction, but when *November* following was completed. By this means they had eighteen Months time, wherein to sell their Wine or their Goods, and pay their *Mony*.

81. There were a sort of Men in the East, which, having their Names from keeping and preserving the Peace, were found to be the greatest disturbers of it. They were the *Irenarchæ*, who seem no other than the Stationary Soldiers in the West ; or rather, those that commanded and overlaw them. They were, as we have already said, instituted by *Augustus*, for keeping the Peace, by watching in their several Stations, or the Territories of the Cities ; for Apprehension of Thieves or Highway-men, and sending them, with their Charges and Examinations, to the Judges. But, as the Edict affirms, being such as would not suffer the Concord or Peace of the Territories to stand, were therefore to be rooted out : and power thereby is given to *Anthemius*, the *Præfæ*, to commit the Peace of the Provinces into the hands of other persons of the most wealthy of all the *Provincials*, to whom the Title of *Irenarchæ* continued : However, as to these Soldiers, it was blasted by this Law : Which was afterward so much altered by *Fulstian*, as to say, that the *Irenarchæ* caused or procured the Peace of the Provinces ; and to commit the Nomination, from the *Præfæ* Pretorio, to the *Decuriones*, according to the Judgment of the *Præsidents*, or ordinary *Judges*. " Its high time to close this Year with a Reprehension, or Check, given by the Emperor, to the Judges or Magistrates, in an Edict directed to *Monaxius*, for forcing the trouble-some Office of *Guardians* upon the Husband-men belonging to the Prince his Patrimony, or such as were excused by Privilege, as Soldiers were, "

82. For the year CCCCX was only *Varanes* Legally nominated *Consul* in the East, they in the West having something else to do than to think of Honours and Titles. *Rome* was still held by *Atalys*, through the power of *Alicius* and his *Goths*, and was more miserably distressed by Famine than ever ; because *Heracianus* having heard how matters went in *Italy*, and understood the Estate and Condition of *Honorius*, stopped up all the Ports of *Africa*, and would not suffer any Corn, or Oyl, or other Necessaries to pass over. The people lived on Chelnuts instead of Wheat, the Dearth being so much the more, for that by reason of the War, the Land had lyen untill the former year, and the Merchants kept up the Grain they had ; hoping to make what advantage of it they pleased. The City was reduced to such Straits, that the people thinking now of nothing but devouring Humane Bodies, cried out at the *Circenian* Games, that a Rate should be put upon *Man's* Flesh ; and there was a Report, that some Mothers laid violent hands upon the Fruit of their own Bowels. *Atalys*, herewith moved, went to *Rome*, and called together the Fathers ; amongst whom it was moved, that the *Barbarian* Soldiers might be sent, together with the *Romans*, over into *Africa*, under the Command of *Dramas*, a Man of approved Fidelity. The Generality of Voices concluded that they should be sent, but *Atalys*, and some few with him, opposed it ; fearing that, by that means, the *Goths* might find an Entrance into *Africa*. Now, *Tertullus*, whom they had deigned *Consul* for this year, so much presumed upon his Ethnick Interest, as to use these words in the Senate.

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L. 16. de Decur. viciis, Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de Exa. cutionibus, Cod. Th.

L. 3. de Exa. cutionibus, Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de Exa. cutionibus, Cod. Th.

L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1.

L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1.

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L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1. L. 1. de H. n. Cod. Th. lib. 1. tit. 1. §. 1.

Care taken about the overflowing of the Nile.

Several other Acts of Grace.

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Alarich deposeth his Mock
Emperor Attilas.

Zosimus his Hi
story breaks
off.

Howins rein
forceth his
Army.

83. *I shall speak to you, Conscript Fathers, both as Consul, and as Pontifex; the place of one whereof I already hold, and the other I have in expectation.* For which he was derided, as sufficiently arrogant. But *Aurich*, being weary of his Mock-Emperor *Atalus*, relucetly to agree with *Honorius*, and to deprive him of his pretended Dignity; *Flavius* having, by his continual Criminations, driven him to it. He drew him by force of *Ariminum*, where he then had his abode; and, in the presence of his Followers, took from him the Purple and Diadem; which he sent to the Emperor. Being thus reduced to a private Life, he kept him, and his Son *Amplius*, with him, till he could procure them Pardon from *Honorius*. *Placidia*, the Emperor's Sister, was now all with him in the way of an Hostage; but he treated her according to her Birth and Quality. *Constantine*, in *Gall*, about this time, having given to his Son *Constantin*, in stead of *Cesar*, the Title of *Augustus*, abrogated the power of *Apollinaris*, and made another *Præfatus Prætorio* in his Room. In the mean time, *Aurich* going to *Ravenna*, to make a firm and lasting Peace with *Honorius*, another Impediment happened, which tended to produce that State of Affairs which followed shortly after. *Sarus*, of whom we formerly spoke, neither joyning himself with one side, nor the other, kept himself Neutral, and his Abode in *Picenum*. Thither *Ataulphus*, the Brother of *Aurich*, betwixt whom and him there was a mortal Feud, came, and fat down with all his Forces. *Sarus* perceiving he was coming, and finding he was no way able to grapple with him, as having but three hundred men; resolved to fly to *Honorius*, and enter into a strict League, Offensive and Defensive, against *Aurich*. And, here breaks off the History of *Zosimus*; concerning whose Veracity, so much hath been said, that nothing need be repeated. But, had the rest of his Work remained, it would have been very serviceable in to great a Defect of Writers, as we now find to handle the matters of those confuted times.

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L. 20. de Tironibus, Cod. Tho. D. r.
6. Id. Feb. Absist
a Cod. Just.

Lib. 9. c. 8.

L. II. de Indul.
gentiis crimi-
num, Cod. Th.
Dat. prid. Id.
Feb. Absit ut
temporaria a
Cod. Just.

Considerantes
Africæ devotionem,
Indulgentiis
Debitorum, Cod.
To. Dat. 7. Cal.
Jul. Naxos
Conf.

84. From other Authentick Records we find, that in the beginning of *February*, *Honorius* reinforced his Army by new Levies. For this purpose he gave order to *Macedonius*, his *Comes Rei Private*, to require of the *Officials of Judges*, and of the *Honorati of Africa*, Money for the setting forth of Soldiers, as the custom had been, and now was practised, as to the *Honorati*; not only in the Provinces of the Country, but also, in *Sardinia*, *Sicily* and *Corfica*. But, he excuseth such of them as had at present free Service or Employment imposed on them; as also, such as were, by the violence of the *Barbarians*, driven out of *Italy*, or the Soil of the City, as he terms the *Subnubian* Regions. For every *Trio*, or new Soldier, he requires thirty *Solidi*, the Rate having often varied; being, first, sometimes at twenty, otherwhiles at thirty six, or half a pound of Gold. But, as to the matter of *Attalus*, or his Deposing, *Socumen* adds to the Narration of *Zofimus* that, when he laid down the Ensigns of Majesty, his Captains all laid down their Girdles; but *Honorius* forgave them, and permitted every man to retain that Honour and Degree which he had formerly enjoyed. There is indeed extant an Act of Indulgence, which bears Date but five days after that about raising Soldiers, inferibed to *Gustav*, as *Comes* and *Magister Officiorum*; but not so full as what *Socumen* writes. For it permits such only to enjoy their places they had before the Usurpation, as came timely off from the Usurper, and returned to Obedience before his Affairs grew desperate; distinguishing betwixt true Repentance and Necessity, or Constraint; with which whosoever were moved, he commands, that their Names be expunged out of the *Matricula*, or Register; as also theirs who had betaken themselves from one sort of Employment to another. “

85. That he timely repent are to be pardoned, and kindly received; but such as his error continued faithful, to be gratified and rewarded. This moved *Junius* to consider the Devotion of *Africk*, as he terms it, how loyal it had been though attempted by *Attilas*: and therefore, toward the latter end of *June* he thought fit to remit such Tributes as were due to the Receipt, either of the *Præfectus Pretorio*, or to that of the *Largitiones*, or *Res Privata*, till the fifth Ididit: *Id est*, on, or the Year *CCCCVIII.* This Edict being placed after another, which in time it preceded, through the heedlessness of the Compilers of *Theodosius* his Code, is directed to *Macrobins*, the *Proconful* of *Africk*: whom *Gothofredus* thinks the same with him, who was, as several Constitutions shew, ten years before this, *Vicar of Spain*; and twelve years after, *Præpositus S. Cubiculi*, and the very Author of the *Saturnalia*, yet extant. Thus much favour the Emperor thought fit to shew his Subjects of *Africk* in *June*: but such was still their behaviour, as to deserve so well at his hands, as farther to enlarge it in *November* follow-

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Alvick the second time before *Bone*.

ing; at the latter end of which Month, he forgave all the Debts that were ow-
ing, to that present time, in a Constitution directed to the *Honourable and Pious*;
for throughout *Africk*; and subscribed thus, *After the eighth Consulship*,
norius, and the *third* of Theodosius. For, there being no Consul in the West this
year, *Parasus*, a Stranger, was scarcely thought of, though mentioned in the for-
mer Law. The Acts of Indemnity and Grace passed, as we said, after the depor-
ing of *Attilius*. But we are told by *Orosius*, that, *In him being made Emperor, then*
unmade; made again, and then unmade; and all this, in a manner, sooner
than said; Alarich laughed, as it were, at a *Mimick*, and gazed at a *Play of Em-
pire*. From this it appears, that Alarich restored him again, after his taking
him out of *Ariminum*, and devastating him of the Purple; and, that afterward,
taking again disfate, he scorned and derided him, and plucked off his Fool's Coat.

86. As therefore, *Honorius*, after his first Deposing, passed that Act of Grace, lately mentioned in behalf of such as had come timely in. Six Months after, or at the beginning of *August*, The Commonwealth being, as he tells *Palladius*, "the *Præfectus Prætorii*, freed from the Injury of Tyranny, he commanded those "that were guilty of all Crimes, to be released; giving thereby, a full and free Pardon to all Crimes relating to the Usurpation." But, however the Commonwealth was freed, this Freedom continued but a very little time: For, though *Ararich* was inclined to make Peace with *Honorius*; yet, by means of *Sarnus*, Matters were again disturbed: Who, as *Sozomen* writes, with his three hundred Men, fell upon the *Goths* when they expected a Peace, and that all things should be in Repose and Quiet. And what he purposed, took effect; for, with this Act, to which he thought *Honorius* privy and consenting, *Ararich* was so incensed, that, suppressing yet his Indignation, he returned to his Army near Rome, and the second time besieged the City. Here *John Baptistæ Egnatius*, a *Venetian*, tells us, he could not but exceedingly admire: For that great was either the injury of times, or lazyness of Writers, both Ancient and Modern; that, whereas all with one consent report, that *Rome*, the Queen of the World, was taken by *Ararich*, the King of the *Goths*, in the one thousand, one hundred, and sixty fourth year after her founding; yet, they either enquired not into the manner of it, or, if they did, wrapped it up in Oblivion, as a matter ignoble, and not worth the knowing. He falls into a great Exclamation, that a City, the Queen of the Universe, which may be believed to have been so luckily founded that it should always be Lady and Mistress of the Earth, and which had so often triumphed over the Barbarous Nations, and the World; should be taken through the craft of the *Goths*, and yet, the series and order of the thing should be unknown. He tells us, he will in no wise endure this; but, being studious to illustrate all Antiquity, will not neglect a passage so memorable. Now, it was taken, faith he, by the craft of the *Barbarians*, after this manner, which *Procopius*, of all that I have read, doth alone relate; and I cannot but admire, that the whole matter is dissembled by his Translator, or else not known, because he light upon some imperfect Greek Copy. But thus he writes.

87. *Aurich* had now, for two years, befieged *Rome*, neither could he durst *Ho-
norius*, who lay idle at *Ravenna*, afford it any succour; for, being solicitous for no-
thing less than the safety of the City; *Stilicho* being once dead, he made no Gen-
eral to carry on the War against the *Goths*. This suggested to them thoughts and
hopes of befieging the City, the *Roman Soldiers* being either gone from his Colours,
or demeaning himself very sluggishly: yet this Barbarous Enemy not being able to
conquer it by force, had recourse to Wiles and Treachery. He pretends to retreat
into his own Country; and chufes out three hundred young men, excellently
qualified, both in Body and Mind, to beset on the principal *Romans*; instructed
before hand how to behave themselves with all diligence and obsequiousness to their
Masters; and on a certain day about Noon, when they were asleep or minded little,
to hasten to the Gate called *Porta Anagnina*; and there killing the Guard on a sudden
Onset, to open the Gate to him, who would be at hand, ready to enter. The *Goths*,
perceiving their Journey, under pretence of want of several things; and in the mean
time, the young men, by their watchfulness, improving their advantages, opened the Gate
at the appointed day to their friends, who were already in the City, and it with
more Ignorance than Damage, though the ravaging it throughout. Some think that
that think the Gate was opened by *Proba*, an Illustrious and most wealthy Lady,
out of compassion to the ordinary sort of people, which died like Sheep, by the vio-
lence of Famine and Dificates. Two things there are, not unworthy to be known:
The one is, that *Aurich* gave order, that such as fled to Churches, especially those

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418

L. s. rnsd. tit.
Det. 2. Col. 130

Post Conf. Honor-
ri 8. & Throd
2. Abs. a Cod.
Justat tempe-
rarie.
In hoc Alaricus
Imp. salto, inse-
cto, refecto &
desecto, citius
his omnibus a-
ctis pene quam
diellis, &c. lib.

7. c. A 2.
Lult. de Indalg:
criminum, Cod.
To. Dat. 7. Id.
Aug. Abist à
Cod. 7. Id.

ROMAN. PRINCĪP:
lib. I.

Sect. 2. of *Peter and Paul* should suffer no violence; which was faithfully observed. The other, that when *Honorius* had word brought him to *Revennas*, that *Rome* was lost, he thought that thereby was meant a Cock, whose name was *Rome*; and he exceedingly admired that he should be lost, who had, a little before, made him so very good sport. Of so stupid a disposition was this Prince, having nothing in him of his Father's or Grandfather's virtue, which also is objected against his Brother *Arcadius*. For, being uxorious, amongst other ill things he did, out of compliance with his Wife *Endovia*, he banished *Chrysostom*, a Prelate of extraordinary Sanctity and Learning.

88. Thus the Illustrator of all Antiquity (as he saith, who should not say it) whose Lucubrations are so illustrious, that a man may use them as Spectacles, and yet see very little, or never the better for them. How true this Relation is in the beginning, where it says, that *Alarich* besieged *Rome* two years, we have seen already: as also, that *Honorius* made no General after the death of *Silicho*, he rather made too many. What we have already written, concerning the swarming of *Goths* in *Rome*, and what multitudes of Slaves there were of these Barbarous Nations, may resolve us what to judge of that fine story of the three hundred young men given to the *Romans*, and the Romantick Tale, that three hundred men, in so vast a City, in such vast Confluence of people, though at Noon time, should bear all before them, and open the Gates to an Enemy; which, lying at the Walls, could not but be suspected. *St. Jerom* hints, that it was taken in the Night time; and it appears, that it was rather surprized, and not after any long Siege; so that there was no occasion for *Proba* her Commiseration: the might spare her pity of the people, which could not be pinched for want of bread in so small a time. It seems *Procopius* and *Egnatius* mistook this latter for the former Siege, wherein *Rome*, indeed, was severely strained.

Which he takes,

When,

And upon what occasion

89. Whatever the Circumstances of taking it were, as to the time, it must have been after the making of the Edict, or Act of Grace, we last mentioned. For, it is generally agreed, that it was not taken till *Atalys* his Usurpation was removed; which was done about the beginning of *August*, as the words of the Edict sufficiently evince. *Baronius* therefore, with good reason, embraceth the report of the Author of the *Historia Miscella*; which will have *Rome* taken, or *Alarich* to have entered it on the three and twentieth of *August*, rather than the Opinion of some more modern Writers, who cast it back to the first of *April*. Besides, the Council of *Carthage*, which was held this year, before the taking of *Rome*, was celebrated but in the Month of *June*. Therefore, the offence taken by *Alarich*, upon occasion of the violence offered to the *Goths* by *Sarus*, or some other pretence, must have been after the later deposing of *Atalys*, and in the Month of *August*. But, why should he vent his Spleen upon *Rome*? Why revenge himself upon that City, where he had lately been so familiar, which had been the Seat and Habitation of his late Mock-Emperor? With the choice of whom, and other Magistrates, *Zosimus* tells us the Citizens were so well pleased? Because he fell out now with *Atalys*, would he quarrel with *Rome*, that had received him? Or, quarrelling with *Honorius*, would he fall out with the City which had owned his Rival in the Empire? Shall we not rather think, that the honest Christian Party, which was greatest, and Loyal to the true Emperor, began to get Ground in *Rome*, and obliged him to depose *Atalys*; which done, they were encouraged to proceed to assert the Emperor's Interest: and thereupon Contentions happened, which recalled *Alarich*, to whom the Party of *Atalys* betrayed the City? That it was taken by Treachery, *Sozomen* writes; and *Prosper*, that *Atalys* being outed of his Empire, gave it up to the *Goths*. Or, in the last place, shall we not rather give credit to what the Poet *Claudian* says so much of the desire wherewith he was inflamed to take *Rome*; that this was the great and only thing he aimed at, in commiseration? And, that he was glad to catch at any pretence, to accomplish so ambitious a design, as to be Master of the Mistress of the World?

90. However, the suddainness of the Enterprize may excuse the wonder and surprize of *Honorius*, who could not imagine the City of *Rome* to be in danger of taking. If therefore, the story of the Cock be true, there was no such reason to make such a stir as the *Pagans* did with it, and any thing else, whereby they could revile or expose him to Hatred and Contempt. For, they attributed all Calamities to Christian Religion, and his Constancy therein, and had great hopes and expectations from *Atalys*; though he and they were deceived by the Answers of their Gods, as *Zosimus* confesseth; and their Sacrifices and other Ceremonies could not do them any good, nor stave off the publick Calamities. For, however *Atalys* had been made Emperor by *Alarich*, yet, when he took the City, the *Pagans* were so far from escaping, that they seem rather most to have suffered. *Orosius*, in short, says, that *Alarich* besieged trem-

A. D.
410.Vide in Annot.
ad h. l.

Sect. 2. bling *Rome*, disturbed and brake into it; yet, having before given Command, that if any Persons fled into the Churches, especially, of *St. Peter* and *Paul*, they should not in the least molest them. In a word, that they might plunder what they would, but abstain from blood. After some particular Instances of the Reverence shown by him and his *Goths* to Religion, he adds, that the *Barbarians*, on their own accord, quitted the City on the third day after their Entrance, having defaced some Houses with Fire; but not with so much damage as had happened to it in the seven hundredth Year after its founding. For, the wantonness of *Nero* exceeded the Anger of the Conqueror, that Fire which he kindled for a Shew and Pastime, having far exceeded this: not to speak of that which happened when the *Galls* took the City, over the Ashes of which they insulted almost an whole Year. That none may doubt but that the City was permitted to be taken for the Correction of its proud Wantonness and Blasphemy: at the same time, he saith, the most eminent places in it that could not be burnt by the Enemy, were demolished by Thunder. But for the main he affirms, that in his time, when the memory of the thing was fresh; yet, if one considered the greatness of the *Roman* People, and heard the noise it made, he would think that, by the Irruption, nothing was done, only some small Ruins of the Fire were still remaining. He concludes the matter with acquainting us, that in this Irruption, *Placidia*, the Daughter of *Theodosius*, was taken Prisoner by *Audolphus*, the Kinsman of *Alarich*, who made her his Wife; *Rome*, as it were, by Divine Providence, delivering her up as an Hostage, or special Pledge, whereby the *Barbarians* were joyed in to great an Alliance, to the great advantage of the Commonwealth.

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c. 42.

91. From several hands it appears how careful the *Goths* were to fulfil the Command of their King, for abstaining from Blood, especially of Christians. Some affirm that, even in the Streets, such as mentioned God and the Saints were spared, and many thousands saved by this means; inasmuch, that many turned Christians: and *Pagans*, as *St. Augustine* reproacheth them, escaped by taking Sanctuary in the places of Martyrs, and Churches of the Apostles. Yet was there not the same fence of Religion in all the *Goths*, nor the same respect shown towards the Command of *Alarich*, in sparing the Christians. All escaped not upon this Account, though it fared worse, generally, with those that were not known to be such; the *Goths* raging vehemently against the *Pagans*. This they stomached much afterward, and thereby endeavoured to raise still greater Envy against Christianity: which put the Bishops upon answering their Calumnies, and to recount the great Damages the Christians also suffered. This doth *St. Augustine* excellently perform in his Book, *De Civitate Dei*, which he began to write the Year following; wherein he shews also, that the people of *Rome* had formerly suffered far greater Inconveniences from its own Citizens, and that the City had deserved all this for the Impiety of the Gentiles; whereas, on the contrary, by means of the Christian Worship, it had been kept from utter Destruction.

92. However, it was plundered, set on fire in certain places, and, of so great a multitude, many thousands were killed or made Prisoners; amongst whom was *Placidia*, the Sister of *Honorius*; which Lady, it seems, *Alarich* had left at *Rome*: for we have seen lately from *Zosimus*, that before this taking of *Rome*, he kept her as an Hostage, though he treated her in a most honourable manner. But, whereas three years seemed hardly sufficient to the emptying of all the Wealth there in so many Ages hoarded up, the *Goths*, as *Orosius* writes, were content with three days; though *Cedrenus* and *Marcellinus* will have them to have departed, not till the sixth day after their Entrance: whichsoever of the two was true, this seemed, in effect, rather a shaking of the Rod over the City, than any sound beating; inasmuch, that the people, as some relate, were presently sensible of their a little intermitted pleasures; crying out, that if the *Circenian* Games were but restored to them, they were well enough. But great was the Alteration, extraordinary was the Change; that the Mistress of the World, the that had extended her Arms so far and wide, and so despised the Barbarous Nations; should now be taken Captive, and become a Prey to a pitiful inconsiderable Rabble, driven out of their own Countries by greater Barbarians than themselves. This Captivity of *Rome* fell out in the MCLXIII Year after its founding; in the eighteenth of *Honorius*, and the eighth Indiction.

S E C T. III.

The Third Step to the Ruin of the Empire in the West;

From the taking of Rome by the Goths, to the death of Honorius, and the Government of a Woman (Placidia) and (her Son Valentinian) a Child.

Containing the space of thirteen Years.

AN extraordinary providence it was that attended *Rome*, and the *Roman Empire* in this calamity. That *Marich*, who having now in his power the Head, might easily with his victorious and triumphant Army have bidden fair for the Conquest of the whole Body; being, as it were, struck with madness, and neglecting a greater opportunity than *Hannibal* had after the Battle of *Cannæ* (like to whom he knew how to get, but not to improve a victory) should neither keep the City he had got, nor take care to have it kept for him; nor move against *Honorius*, whom altogether unprepared, he might easily have destroyed. Driven out rather by an Almighty Hand, than going of his own Account; with straggling Troops rather than a well ordered Army he invaded *Campania*, and the parts lying toward *Sicily*, which he harraided; and fevered handed Church-men, to wrest from them all the Gold he could possibly compass.

Honorius having received intelligence of his motions, kept himself at *Ravenna* the remaining part of the year, expecting how far his fury would transport him. But ten days before the taking of *Rome*, the Emperor seems again to have undertaken the care of supplying the City, after it was returned to obedience, and had so deeply suffered in the want of Necessaries. For whereas ordinarily the *Navicularii* were not bound to pass the Seas, or sail in Winter; yet now upon so pinching and extraordinary an occasion, he commanded, that Winter it self should not excuse them, when the Wind served, and the Weather was good. By an Edict inscribed to *Augustinus* the *Præfectus Prætorio*, he imposeth a severe penalty upon the Judges, and also the *Decuriones* and Bodies Corporate; even loss of Estate, if they suffer any laden Ships to remain in their Havens upon pretence of Winter, if the Season be convenient for Navigation; and on the *Navicularii* if themselves he inflict Deposition, if they be convicted to have used any fraud to hinder their Voyage. The Principals of the *Agentes in rebus* he now gratified highly, by confirming on them the Dignity of *Proconsuls*, and equalling them with such, who formerly indeed had been preferred before *Rationales*, but came after *Præfides*, though afterwards made equal with *Consulares*. And considering the time and the present exigency of Affairs, he was highly kind and indulgent to those that served in the *Sevintia*. For though *Rome* had been taken and plundered, and the Enemy was yet in the Bowels of the Country; yet when there seemed greater need for supply than ever, did he give Command to *Miletius* the *Præfectus Prætorio*, that when there was an Indiction of Horses, or other things, these persons should be spared; so as neither while serving, nor having served their time, they should be liable to that Burthen. And he threatens the Judges and their Apparitors with the forfeiture of ten pounds of Gold, if they do not refrain from molesting them in this kind; all other persons not privileged being to be called on, as need shall require.

3. Though

Sect. 3.

Theodosius endeavours to preserve his House from the flame.

3. Though the House of *Honorius* was so much on fire this Year, as to threaten the reducing it to very Ashes, yet was he desirous, that it should not so spread, as to catch hold on the Habitation of his Neighbour. His Nephew *Theodosius* had no great reason to be uneasy at *Constantinople*, except it was out of Commiseration towards his Uncle, and apprehension, that if he was ruined, he should but have the favour which *Polyphemus* promised *Ulysses*, to be the last that should be devoured. To prevent it as well as he could, he held intelligence with his Uncle; and it was agreed betwixt them for their mutual security and assistance, that the Coasts of the Eastern Empire should be well secured, where they lay toward the Western Border. In pursuance of this, an Edict was directed to *Anthemius*, who carefully watched for the safety of his Prince, and that toward the latter end of April, commanding, that all Roads, Havens, Shores, and all remote and privy places in the Provinces, together with the Islands, should by the disposition of his Magnificence, as it stiles him, be prudently and carefully kept and secured, so as no manner of person, either by force and violence, either openly or privately, should convey himself within the Territories of the Empire, but be stopped, or apprehended, except he brought a Pass or Letters from the Lord *Honorius*, the Emperor's Uncle; and that evidently appeared. Moreover, if any such person pretended to bring Letters to any of private condition, these Letters and all Papers about him should be carefully sent to *Theodosius*; for this, saith he, the present occasion of Tyrannick Fury, and Barbarick Ferity doth persuade. And so, after having sent and received an answer, it is agreed betwixt me and my Lord and Uncle *Honorius*. By tyrannick fury he means the Usurpation of the Tyrant *Attilus*. By Barbarick Ferity, the rudeness and cruelty of the *Goths*, and other Barbarous Nations, which now swarmed in *Italy*, *Spain* and other Provinces of the Western Empire.

4. But in so extraordinarily dangerous times, *Theodosius*, or *Anthemius* rather, did not only think fit to secure the Borders, lying Westward, from Spies and Discoverers, but the other also of the East, though at this time the League, made by *Arcadius* with the Kingdom of *Persia*, was in force. For there is another Law, which, though without Date of Year, or Day, yet inscribed also to *Anthemius*, and concerning this same subject, is rationally thought to have made up with the former, one and the same Constitution. This prohibits Merchants, as well Subjects of the Empire, as of the *Persian* King, to hold any Markets or Fairs in any other places than those that had been agreed on when the Law was made; lest crests should be discovered. No Subject of the Empire shall dare to go beyond *Asiaticis*, *Callinicus*, and *Artaxata* to traffick with the *Persians*. Both Buyer and Seller must know, that such Wares as shall be bought or sold beyond these places, shall be confiscated, and the Party himself banished, besides the loss of the price, or things exchanged. Moreover the Judges and their Apparitors of every Limit, through which any *Roman* or *Persian* passeth to any prohibited place, for every such unlawful Bargain shall incur a Fine of thirty pounds of Gold. But such are excepted as shall accompany Ambassadors that come to the Emperor from the *Persian* Court; for they are allowed to traffick out of the forementioned places, provided, that they abuse not this privilege granted for the sake of the Embassy, by staying longer than the Ambassadors themselves. By this we see the manner of preventing Spies and Discoverers in this Age, by hindring Commerce; which being a specious pretence, under the Vizard of Merchants many of them have in all times concealed themselves. Towards the latter end of the Year it was thought fit to mitigate the rigour of the Law, whereby married persons were tied up so, as if they had no Children they could not receive above a tenth part of the Estates of each other. So severe was that Law called *Lex Papa Decimarum*, which *Constantine* the Great did not repeal, though he took away several penalties belonging to *Calibates*, and Burdens that lay upon such as had no Children. But now those that *Theodosius* thought it convenient to repeal this also, and in this respect to grant the *Fus Liberorum* to all married persons, that they might receive by the Gifts or Testaments of each other as much as those that had Children. Though for encouragement of propagation, other privileges still remained peculiar to such.

5. For the Year CCCCXI *Theodosius Augustus* was Consul the fourth time alone; and sometimes it is marked thus, *After the Consulship of Varanes*. *Marich* having wasted *Italy*, and gratified his humour to the full upon the Continent, resolved to pass over now into *Sicily*, and there also to act according to his covetous

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Sect. 3.

and cruel inclinations. For this purpose he drew down his Forces to *Rhegium*, and put them on Board, but in his attempt to pass over, was scised by a Tempest; which so disordered the Fleet, that he was constrained to return into *Calabria*, where he fell upon *Constantia*, a strong City that refused to obey him, and having taken it, permitted it to be plundered. Here he consulted what to do, and whether to turn his Arms, when he was suddenly summoned to give an account of what he had done already; for, falling sick, his Disease quickly dispatched him to another world in the height and career of his success. His *Goths* were exceedingly perplexed at the death of their King, under whose conduct they had prospered so long a time. As soon as grief would give them leave, when they considered what great mischiefs he had done to the *Romans*, imagining, that if they buried him in any place that was easie of access, his Body might be dugged up, and ill treated by those whom he had injured; by the assistance of Slaves they digged a Ditch, and drained the Water out of the Channel of the River *Asclutius*.

Asclutius dieth.

His Burial.

Ataulf succeeds him.

There in the middle of the Channel did they bury him with abundance of Wealth; which done, they let go the Water back into the Channel, and the stream returned to its ancient course; after which they killed the Slaves that had been employed in the Work, that none might give notice of the place. Having done this last office to their deceased King, they held a Consultation whom to elect into his Room, and made choice of *Ataulf*, his Wives Brother, who thus promoted, procured the consent of *Galla Placidia*, the Sister of *Honorius*, a Woman of excellent parts and person, to marry him at the place called *Forum Corneli*, which Marriage, as *Sozomen* observes, happened very well for the Empire, the mollifying his fierce and cruel humour, by the cunning art he had of working upon him, and procuring him of his own accord to desire peace of the *Romans*.

6. This is much more probable and true than what the Writer of the *Historia Miscellanea* speaks of *Ataulf*'s his returning to *Rome*, with the Army presently after the death of *Atarich*; his plundering of it, and thence taking away *Placidia* to be his Wife. For as to *Placidia*, others signify, that she was in the hands of the *Goths* before *Atarich*'s death, as we have seen already; and that violence was again offered to *Rome* presently after his Decease, is no where else to be found. But *Orosius*, who living at this time had reason to be well acquainted with the Affairs of it, tells us, that as the report went, and as his end sufficiently discovered, *Ataulf* was a studious endeavourer after peace, and designed to serve *Honorius* faithfully, and to employ the Forces of the *Goths* for the interest of the *Roman* Commonwealth. He adds, that he himself had heard a certain person, (who having served *Theodosius* in an eminent Command in the Army, afterward had the testimony of *S. Jerome* for a religious, prudent and grave Man) at *Ecstheben* in *Palestine*, say that he was very familiar with *Ataulf* at *Narbon*, the place of his Nativity; that then he understood from him, as others did, that being high in his Design, in his power and wir, as he himself was wont to relate, he had a vehement thirst and desire to have the *Roman* Name obliterated, and all the extent of the Territories of the *Romans* to be called the Empire of the *Goths*; or to speak vulgarly, that it should be called *Gothia*, instead of *Romania*; and the name of *Ataulf* should be substituted in the room of that of *Cesar Augustus*. But having by manyfold experience proved, that the *Goths*, by reason of their unbridled Barbarity could not be brought to obey Laws, and that the Commonwealth could not subsist without them, he then resolved to provide for his own Security and Glory, by restoring fully the *Roman* interest, by the force and assistance of the *Goths*; that he might be esteemed by posterity, as the Author of the *Restoration* of *Rome*, seeing he could not be of an *Alteration*. For this purpose he endeavoured to abstain from War, and laboured for peace all the ways he could, especially being tempered and inclined by his Wife *Placidia* to all good Offices, the being a Woman of a very sharp Wit, and unblameable as to Religion. Being studiously intent after the procurement of peace, he was at length killed at *Barcomene*, a City of *Spain*, through the treachery as was reported, of his own Men.

7. This happened some time after, as we shall see in its proper place. At present leaving *Ataulf* newly married to *Placidia*, and as some write, purposing for *Gall*; we shall haste thither before him, being called by the motions that now happened betwixt *Constantine* and *Gerontius*. *Sozomen* acquaints us, that *Gerontius* being the Chief of all his Commanders, now turned his Enemy, and adorned with the Imperial Habit one *Maximus*, a familiar acquaintance, whom he thought fit to be made an Usurper. Him he permitted to stay at *Tarracoon*, and he himself

A. D.

411.

Paulus Diaconus.
Rerum hinc inde
distinguit legem.
Et hinc inde
consequitur ci-
vilitatem de di-
vino suo diri-
cat. Jornan-
dis de Rebus
Gothicis. 35.

Atte-ally Ge-
thica patris
vassilum.

Sect. 3.

Gerontius puts
Constantius to
death.

led his Army again *Constantine*, hoping to surprize his Son, who then lay at *Vienna*, and speedily to dispatch him. *Constantine* when he heard what had happened about *Maximus*, made *Edobechus* his Captain General (whom some make King of the *Franks*) and he sent him beyond the *Rhine* to draw the *Franks* and the *Allemanni* into a confederacy. To *Constantius*, his Son, he committed the custody of *Vienna*, and the other Cities. But *Gerontius* marching thither, fell upon *Vienna*, took it, and therein *Constantius*, whom he put to death. Thence he removed to *Arles*, and in that place belieged *Constantine*, whom he hoped in a short space to fend after his Son. It happened not long before, that *Honorius* observing the restless humour of this man, though he had owned him as Emperor, and sent him the Purple, yet seriously considered how he might rid *Gall* and himself of such a Colleague. He cast his eyes upon *Constantius*, one to whom Writers give the Title of *Comes*, a *Roman* of great Nobility, of great Valour and Prudence; and him he made *Magister utriusque Militie*, and with a powerful Body of Men sent him into *Gall*. He chanced to come into the Country at such time as *Gerontius* lay encamped against *Constantine*, and there he also lay down before *Arles*, esteeming both of them as Enemies to his Master, though they were at enmity betwixt themselves. And he ordered his matters, that most of *Gerontius*'s Soldiers came over to him, and forsook the Traitor, who thereupon, to avoid destruction, fled presently into *Spain*.

8. *Constantius* continued the Siege of *Arles*, which he had begun; and not long after news was brought of the approach of *Edobechus* with a great number of *Franks* and *Allemanni*. The report hereof so struck the Officers of *Honorius*, that they thought of returning back into *Italy*; but *Constantius* resolved with the Foot to abide his coming, and sent *Uphilas*, his chief Commander of Horse, to lie in wait for him, and use all advantages which time or place might afford. He permitted *Edobechus* to pass by with all his Troops, that he might fall upon him in the Rear at such time as his Front should engage *Constantius*; and by this means it came to pass, that he was utterly defeated, all his Men being slain or taken, except some few that escaped. He himself fled, and got safe to the House of one *Ecdicius*, whom he had much obliged, and therefore took for his faithful Friend; but he fairly cut off his Head, and brought it to the Officers of *Honorius*, expecting great favour and rewards for so meritorious an Act. *Constantius* commanded them to receive the Head, and in the Name of the Commonwealth, that thanks should be given to *Ecdicius* for executing what should have been done by *Uphilas*; but whereas he purposed to remain in the Army, he commanded him to be gone, not thinking it lucky, either to himself or it, to harbour so ingrateful a Man. But *Constantine*, who had endured a Siege of four Months, when he heard of the overthrow of *Edobechus*, de-vested himself of the Purple, and fled to a Church, where, hoping thereby to secure himself, he obtain'd to be made Priest. This known, the Inhabitants of *Arles* having received an Oath from *Constantius* for their Indemnity, opened their Gates. Being entred, he caused *Constantine* with his other Son *Fulian* to be secured, and sent to *Honorius* into *Italy*; and he hearing of his coming, sent those to meet him, who, at the River *Mincius*, cut off his Head, and presented it on the seventeenth of September. He had used the Title of Emperor five years from his first Usurpation. For an Usurper he was at first. But being owned by *Honorius* afterward, who sent him the Purple, and had power to make or receive a Colleague; according to that Law and Custom which in the Empire was now observed, of Emperor we can scarcely deny him the Title.

Constantius, his
Father, taken
by Constantius,
and put to
death.

9. *Gerontius*, as we said, fled into *Spain*, but there was not received according to his hopes. For, as unfortunate Men are ever despised by the Vulgar, the Soldiers there now esteeming him not at all, because of his flight, resolved to put an end to his life and reputation both together; and for that purpose beset his House. He so stoutly demeaned himself, that with the assistance of an *Alan*, his familiar Friend, and a few Slaves, by Darts and other means he killed three hundred of them. But when those Weapons failed them, the Slaves fled and made their escape, when *Gerontius* might also have done; but the love of his Wife *Nonnichia* detained him. The Soldiers now meeting with no farther resistance, set fire to the House, and *Gerontius* finding there was no hope, first cut off the Head of his Friend the *Alan*, who desired it, then of his Wife, who with tears and lamentations met the Sword, and rather than to fall into the hands of the Enemies, was glad to die with her Husband, and earnestly begged this last favour of him. Then at last he wounded himself three times; but these Blows not dispatching him, he took his Dagger, which

Gerontius in
Spain, being in
danger, kills
himself.

F f f f

Sect. 3. which hung at his side, and therewith struck himself into the heart. *Maximus*, his Mock-Emperour, that he had set up, not long after perished, as *Socomen* hath it: but *Orestius* writes, that deposed and forced to a private life, being forsaken by the *Gallican* Soldiers (who first passed over into *Africa*, and again returned into *Italy*) at such time as he concluded his History, he lived as a banished Man in *Spain* amongst the *Barbarians*. This time being fruitful in Tyrants, the boldness of one encouraging another to such Attempts as they could not yet but observe to be tragical in the end; one *Fovinus*, a Man of great Nobility, and Power amongst the *Arverni*, took upon him also the Ensigns of Majesty, and hoped by the assistance of the *Franks*, *Burgundians*, and *Almans* to defend his usurped power.

Fovinus usurps
in Gall.

The *Huns* in-
vade the Pro-
vinces.

10. Thus miserably were the Provinces of the West harassed this Year; *Italy* and *Gall*, as we have seen; and still the farther Spain by the *Vandals*, *Alans*, and *Sueves*. And the East had also its share in the public calamity, though small in comparison of what the West did suffer, which had the ill hap to be the Receptacle of such inundations as did but in *transitu* afflict the Eastern Provinces. *S. Ferom* writes, that presently after the captivity of *Rome*, the whole East trembled with the terrible Messages that were brought, how Swarms of *Huns*, which proceeded from the utmost extent of *Maotis*, between frozen *Tanais* and the savage Nations of the *Maffagetes*, with their swift Horses flew up and down, and filled all places with terror and Slaughters. Now, he saith, the *Roman* Armies were detained by Civil Wars in *Italy*; so that the *Barbarians* had scope enough to go whither they pleased, and by their speed to prevent the very fame of their coming. They had no respect, either to Religion or Dignity; no Age they spared, neither had any pity for the crying Infant, but compelled these to die, who yet had not begun to live, and knowing not their danger, when in the Enemies Hands, smiled at these Weapons which were immediately to destroy them. He adds, that the constant rumour was, that they purposed for *Ferusalem*. Some are of opinion, that out of *Asia* they poured themselves into *Thrace*, and so into *Pannonia*. For it appears, that after the *Goths* had quitted *Ilyricum*, they were succeeded by the *Huns*, who especially seized on *Pannonia*; *Honorius* now not being in a condition to make any considerable opposition; so that he yielded to an agreement with them, and as he received, so he gave up Hostages, amongst whom was *Atius*, who had formerly been delivered up to *Marich* on the same account.

11. This Invasion of the *Huns* in the Eastern Parts foreseen, or feared, put those about *Theodosius* upon an endeavour to secure as well as they could the Northern Limits. Besides the Fortifications of Castles and Walls, upon such Rivers as parted the Empire from the Territories of *Barbarians*, there were kept certain Vessels of War called *Luforia* from their playing or plying about, whereof some were employed in continual Watches and Discoveries, lest the *Barbarians* should attempt any thing suddenly and unseen; and others kept their stations, as occasion required, to oppose their motions, if they offered to pass the Water. A Fleet of these Frigates called *Luforia* (as those that were at Sea *Liburnæ*) there was ever on the *Rhine* for defence of the Empire against *Germany*, another, as the Reader may remember, was settled on the *Mola*, or *Menfe*; and in the East there was a third, which plyed upon the *Danube* for defence of the *Mæsan* and *Seythian* Limits, which lay in *Mæsia* and *Seythia*, two Provinces of the Dioceses of *Thrace*. To reinforce these Limits, a Rescript we find directed about this time to *Constantius*, by the Title of *Magister Militum* throughout *Thrace*, dated on the twenty seventh of *January*, thus: Our Lord *Theodosius Augustus the fifth time being Consul*, and he who (in the West) shall be declared. Now, as for the year, *Theodosius* was Consul but the fourth time in this whereof we write, and in that following was the fifth time adorned with the Consular Ornaments. But *Theodosius* being this year Consul alone, whereas in the following, his Uncle was joined with him; and in the Date of the Law no other being expressed, but only this added: And he who shall be declared, this seems to direct us this present Year, wherein no Consul being declared in the West, they in the East at the latter end of *January* were still in suspense and expectation who should be the Man. The fifth time also might easily be mistaken by the Scribe for the fourth. However, the matter is not great, it being certain, that in one or other of these Years the Law was enacted; and therefore the Chronology of *Theodosius* his Code, to make sure of it, sets it at both the one and the other. It ordains, that in the *Seythian* Limit, (because it was larger, and extended to a greater distance upon the Borders) shall be employed one hun-
dred

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Epiphaz, *Fabius*
le.

Sigen.

Julianus
ditto,
Agaius

Sect. 3. dred twenty six of these *Luforia*, so as every year seventeen new ones shall be built, and furnished with all conveniences. Of these, five shall be for Discovery, and twelve to keep the usual stations. In that of *Mæsia* shall be employed one hundred *Luforia*, so as every year fourteen new ones shall be built, whereof four of the first, and ten of the latter sort; that so in the space of seven years the whole number (almost) may be repaired. This must be done at the instance of the *Duces* of the Limits, the *Magister Militum* of the whole Dioceses, taking care, that they do their Duties, and that materials be provided for the building of the Vessels. In the last place, order is taken, that these *Luforia* be duly repaired, when grown old and leaky, and appointed to the transportation of Corn and other Necessaries for the Armies.

12. In the Year CCCXCII, *Honorius Augustus* the eighth time, and *Theodosius Augustus* the fifth, (as we lately hinted) received the Consular Ornaments. *Honorius* this Year made his Abode at *Ravenna*, and *Theodosius* at *Constantinople*. *Ataulfus* now with all his *Goths* quitted *Italy*, and went into *Gall*, where he chose to inhabit the Province of *Narbon*, with the consent and allowance of *Constantius*, who setting himself against *Fovinus* the late *Usurper*, overthrew him in Battle, and drove him at length out of *Gall*. After his overthrow his Brother *Sebastian* set up for himself, as if the Sovereignty had been entailed upon their Family; but *Constantius* made his Reign to be very short, putting an end to that and his life together in a little time. Having done this, and punished such as had encouraged the Rebellion amongst the *Arverni*, he went into *Spain*, and there easily mastered the *Usurper Maximus*, whom, finding a mean Fellow, and nothing answering to his name, he despised him, and let him go; so as *Orestius* writes, he lived afterwards among the *Barbarians*. These *Barbarians* were the *Vandals* and *Suevi*; who by this time, in a division of Countries they had over-run, had *Gallicia* fallen to them for their share; the *Alans*, who possessed *Lusitania*, or the *Turcilingi*, to whom some assign the parts of *Bætica*. These now held the farther *Spain*, being modelled in certain forms of Government under their several Kings. But the hither parts of that Country, *Constantius*, by subduing the *Usurpers*, now reduced into obedience to *Honorius*, the rightful Prince; and this performed, he returned into *Gall*.

13. The *Goths* being removed out of *Italy*, *Honorius* was much at ease, but the Treasury was quite exhausted; and the Affairs of the Empire were in such a posture as required he should be upon his Guard, and provide against such accidents as he had too great reason to expect. More Men were to be raised, and the Money paid usually in the room of finding *Tirones*, was to be exacted. But the Burthens of State were so great, that to evade them, all persons that had any pretence flew to their privileges, which put *Honorius* to the pains of declaring what persons they were that he would hold excused. These were the illustrious, the *Præfidi* *Prætorio*, the *Magistri Militum*, the *Comites Domesticonum* (it being he, saith, improper, that they should be bound to find Soldiers, whose Valour makes his Enemies Captives, and prepares them for his Triumphs) the *Præpositi*, or *Primicerius* of his Bed-Chamber, the *Castrensis*, the *Comes Sacra Fæstis*, and the other Chamberlains, the *Magister Officiorum*, the *Questor*, and the two illustrious *Comites*, or High Treasurers. Eight of these persons were illustrious, after whom he subjoyns others, of the degree of *Spesabiles*. The *Primicerius* of the *Notaries*, the *Consistorian* *Comites*, the *Magistri* of the *Serinia*, the *Tribunes* and *Notaries*, the principal Physicians, (or *Comites Archiatrum*) the *Comites Sabuli*, the *Cura Palatii*, the *Scholares*, the *Proximi* of the *Serinia*, and the *Serinia* themselves; the *Comites Dispositionum*, the *Decoriones*, the *Magister Admissum*; such other persons in Dignity, or *Comites*, as were associate to the labours of the Prince, as he words it; and in the last place, the *Tribunes* or *Præpositi* of the Army, who had received testimony of ancient service. All these persons he excused, as well after their Employments, as when in Office, both from the payment due for finding of Soldiers, for Horses, and that of Gold. Heads, that he will have them only obnoxious to those payments, whom Antiquity called *Honorary*; or who, having obtained Civil Dignities, had bestowed no pains in such Employments. As also such as having the Military Titles of *Præpositi*, or *Tribunes*, knew not what belonged to the Camp, and never looked the Enemy in the face.

14. This gives us an account of the Ranks and Orders of Court, and Military Officers; but such as in some things differs from that we premised to our History from

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411.

Le. de Luf-
rii Decem.
Ed. Th. l. 7. tit.
l. 17. Dat. 5. Cal.
Fabr. Const.
D. Th. l. 1. tit. 1.
A. Conf. Et
qui sunt na-
ti, et qui
est, et qui
est, et qui

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Hon. 10. A.
8. et Theo-
dosio A. 5.
Coll.

Epiphaz, *Fabius*
le.

Sigen.

Julianus
ditto,
Agaius

Le. de Luf-
rii Decem.
Ed. Th. l. 7. tit.
l. 17. Dat. 5. Cal.
Fabr. Const.
D. Th. l. 1. tit. 1.
A. Conf. Et
qui sunt na-
ti, et qui
est, et qui

Sect. 3. from the *Notitia* of the Empire. At this time the *Comites Domesticorum* had an
 higher place than afterward, when the *Notitia* was composed, as *Guthred* well
 observes; because at this time they often executed the Offices of *Magistri Mil-
 litarum*, and the Law it self gives testimony to their Valour. They that are called
Comites Stabuli were Masters of the Horse, and sometimes have the Title of *Tribunes*,
 as *Valens* had under *Valentinian*, his Brother. But further, by this same Constitu-
 tion directed to *Meletius* the *Præfēt*, *Honorius* declares, that he excuseth illustri-
 ous Persons, not only from those payments, for Soldiers, Horses, and that of a
 Gold, but from all both fordid and extraordinary services: "Whereas by the
 Laws of *Valentinian* the younger, and *Honorius*, they had only been freed from
 fordid Employments. He was now put in mind of several things which ought to
 be reformed in *Africa*, which had of late been sorely harraffed, and yet had very
 well deserved of him. Complaint was boldly made, that the Possessors of Lands
 were burdened, by being compelled to pay, not only for their own Grounds, but
 such as were barren or forsaken. We have formerly spoken of the *Epibole*, which
 was devised for equitable reasons; for oftentimes Lands were so alienated, that the
 best and most fertile were bought up, and others utterly neglected, though with
 diligence and care they might also have been rendered sufficiently fruitful; a practice
 so common in some Provinces, that it was necessary for the restraint thereof
 to make a Compensation or Adjection, so as the barren should be added to the fertile,
 and Tribute paid for both together. But this was only when both sorts of Grounds
 had belonged to one Man, or the occupation of them proceeded from the same
 Right and Title, not when they had no Relation one to another. But now in *A-
 frica*, the Officers of the Revenue extended this *Epibole* too far, making such Pos-
 sessors pay for deserted Lands, as had no obligation at all to do it. To redress the
 Grievance, *Honorius* gave in charge to *S Seleucus* the *Præfēt* of *Italy*, that *Inspe-
 ctors* should be sent into that *Dioecesi* to view and consider the grounds and reasons
 of the Complaint; and thereof make a report, that all matters relating to the
 Tributes might be put into a due posture.

He regulates
the *Epibole* in
Africa.

14. But particularly as to the payment of Gold and Silver, such care had formerly been taken by *Theodorus* the Great, that neither the Money might be diverted to other use, nor the Possessors forced twice to pay the same Duty; therefore did he ordain, that payment should be made before the *Defensors* of the Cities, and Acquaintances delivered in their preference. But this, it seems, proved not effectual to prevent oppression, which appearing to *Humorius*, he now enjoined *Eucharistus*, the *Proconsul* of *Africk*, that all payments of Gold and Silver should be made in the City of *Carthage*, the place of his Residence; who being the great Officer and Magistrate of the Country, would strike more awe into the Collectors, so as not to dare to refuse the giving of full and fitting Discharges. In the same City of *Carthage*, and thar in the *Secretarium* of the *Proconsul*; he presiding on the Tribunal, and the People being let in, and standing about him, he will have the Exactors of Tributes chosen at the appointed times. If any of them shall be found faulty in their places, others shall be chosen to succeed them; and if they be found guilty of oppression shall be capitally punished, and their Estates answerable for fourfold of the value of what they superexacted. If any of the Judges shall neglect to see those orders put in practice, he shall incur a Fine of thirty pounds of Gold.

15. The *Cuaries* add as heavy complaints, that they were not only employed in business relating to their Charge, but hurried about, and forced to be Stewards and Bailiffs of the Lands belonging to the *Res privata* of the Prince; to collect the Cloaths that the Provincials found for Soldiers, and to undergo other labours. These two things he particularly prohibits, and in general, that the *Cuaries* be vexed with mean Employments and extraordinary Burthens; laying them "upon the Shoulders of the Officials, belonging to the Governours of Provinces, and in *Africa* to the *Proconsul*. For, the whole Welfare and prosperity of Cities depending upon the *Cuaries*, if they were thus diverted from their charges, the interest of the Provinces must be much impaired, and the Officials were more proper for such Employments. Being Soldiers themselves, they had better reason to understand the Habits that were most proper to such; and besides, they received some profit from the furnishing of these Cloaths; and therefore reasonable it was, that the advantage belonging to them, the Burthen should be also theirs. Other publick Officers there were, which in this same Constitution he gives order to *Eucharius* to reform. Particularly to put a stop to the injustice and

And redress
other Grievances.

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412.

*L. ult. de extra-
ordinariis, &c.
Cod. Tb. & L. ult.
Cod. Just. de ex-
casat. manerunt.*

L. 31. de Anno-
na & Tributis,
Cod. Th. & L. 12:
Cod. Just. de
omni agro de-
serto, Dat. prid.
Cal. Febr.

L. 32. ejusd.
tit. Cod. Th. De
pud. Cal. Mari.
Abist a Cod.
Inst.
L. 20. de Exa-
tionib. Cod. Th.
Abist a Cod.
Inst.

L. 21. ejusd. tit.
& L. 31. de
Susceptorib. Cod.
Th. & L. 14.
Cod. Just. eod.
tit.

CHAP. III.

Sect. 3. and Infidelity of the *Mancipes*, or such as bought and exacted Horfes for the Cur-
as Publicus, where the Provincials were not wont to furnish them, as in *Africa*.
 They were careless in their Choice, and therefore, he will have the loss accruing by
 any unbound or unfit, to redound to themselves. In the last place, *Eucharius* had
 complained, that several Officials that had belonged to him, as *Proconful*, had de-
 serted their Stations, and betaken themselves to *Palatine* Employments, for this
 reason; that, being obnoxious to Punishment for their ill Behaviour, or oppressing
 the Country, they might shelter themselves in a higher and more privileged Ser-
 vice. To redress this Inconvenience, *Honorius* wrote, both to him, being princi-
 pally concerned; to *Solenus*, the *Præfatus Prætorio of Italy*, as the Prime Minister
 of State in that District; and to *Probus*, the *Comes Largitionum*, to whose Of-
 fice the Fugitives had betaken themselves: Commanding that they should all be
 forced back to their several places; and, for the time to come, if any should pre-
 sume to offend in this nature, they should, during life, be condemned to serve as
Mancipes of the Curfus, or to the receiving of Tributes. Which Laws, this very
 Year, by another Constitution. he was courtained to reinforce.

16. Indeed it was misfortune of the Provinces of *Africk* all along, to be more har-
assed with Grievances than any others, because they lay at such a distance beyond the
Sea; and Complaints were stifled before they could be fairly represented to the
Prince, as we have seen heretofore, in the days of *Valentinian*. This encouraged
Officers to be so faulty and corrupt, that even such as were ordained to prevent
Mischiefs and Disorders, made use of their places and power to commit greater Out-
rages than those they were appointed to redress. The Reader may remember there
were, upon occasion, certain Inquisitors sent into the Provinces, to look after
Defectors, and such as fringed from their Colours. Usually the *Procurators* were
employed in the business, and such as had the Title of *Tribunes*. These men were
come to that height of Insolence and Oppression, making use of their Power to
prey upon the Country; that, to answer the grievous Complaints of the Provin-
cials, *Honorius* was now constrained, by an Edict directed to *Consentinus*, as *Ma-
gister Militum*, to abolish the Name very and Office throughout *Africk*, as unlucky
and to make it Capital for any to aspire to this condemned Employment, out of
desire to prey upon the people. The Necessities of *Rome*, and the frequent occasi-
ons for marching of Soldiers, solicited him now again to quicken up *Seleucus* to take
care that the Body of the *Navicularii* should be full, and neither any Persons or
Lands escape that were obnoxious to that Function. For their encouragement,
he shortly after confirmed the Privileges of those of *Africk*, by a Constitution di-
rected to them themselves; wherein he sentenced such Judge or Magistrate as
shall not give them Relief and Protection in case of any Grievance, to have his
Estate liable and obnoxious to the Function, without any hope of Pardon or Re-
lease. He imposed a Mult of ten pounds of Gold upon any *Judges* of Provinces,
upon the *Proconsul*, *Vicar* and *Præfectus Annone* of *Africk*, and their Officers, if
they suffer any thing to be diminished of the hundredth part allowed them for
Leakage, and if they permit any to receive any Present from them; and con-
demned the Receiver besides, to pay four-fold the value into the Treasury. And
whereas the *Tribune Notarius*, and the *Apparitors* belonging to the *Præfects*, were
wont to be sent and employed by the Emperor and *Præfects*, to direct, assist and
expedite the bringing in of Corn. If they shall receive any thing from the *Navic-
ularius*, or from the Master of the Ship, he commands, that they be punished at
the discretion and instance of the *Judge* or Magistrate of the place,

17. He further provides for them in case they suffered Shipwreck ; That the *Judges* presently hear their Causes, the Hanging of the *Secretarium* being removed, so as they and others may freely enter, and be heard. And, if any Officers, or Clerks belonging to the Court, shall require or take any thing of them, he gives power to the *Judge* to mulct, remove or proscribe them, according to the Quality of the Persons. And, in case the *Judge*, having Application made to him, either by offering Libel or bringing the Matter to a full Hearing, shall not determine it within the allotted time, or the space of two Years ; then shall he pay one half of the lols sustained by Shipwreck, and his Office the other half. There being scarcely an end of Complaints out of *Africk*, the *Dumwoir* of one City were said to pres upon those of the lesser or inferior, and to extend their Jurisdiction beyond their Bounds. Of this *Honorius* was also obliged to take notice to *Eucharius* ; Giving order to punish such of them as should erect the *Fages* of their Authority beyond the Limits of their Territories. “ By which it appears, that a

A. D.
412.

L.9. de Curioy.
Cod. Te.

L.L. 22, 23, 24.
de Cabot et al.

L.25, c.16d.14r:

It salutaris au-
tem illud ne-
ququam voca-
bularum vel offi-
cium infans-
tum Constitui-
mus per Africanam

esse dicere, L.
ult. de Deserviti-
bus, Cod. Th. Dat.
pud. Cal. Mart.
L. 35. de Nati-
culariis, Col.
Th. Dat. pud.
Nov. Mart.
L. L. 36, & 37
ejusd. tit. Dat.

L.L. 36, & 37
ejusd. tit. Dat.
16. Cal. Apr.

2011

Lult. de Nak-
fragilis, Cod. To
& L. 5. Cod.
Just. cod. tit.
Dat. 17. Cal.
Apr.

L. 174. de Dign.
rionibus Cod. Tit.
& L. 93. Cod.
Just. cod. tit.

Sec. 3. this time *Dumviri*, or Municipal Officers, had *Fasces*, or bundles of Rods carried before them; whereas, of old, they had neither *Fasces* nor *Axes*, which were peculiar to Governors of Provinces, but only some *Beadles*, or *Apparitors*, that carried Staves before them, as their name imported; which we may learn from the *Acts of the Apostles*. He was perwaded also, to give order, that the *Curiales* should be put upon the Priesthood, as formerly; the people still being unwilling to quit their *Ethnick* Pastimes; and, that the Sons of the *Curiales* should be drawn back to their Cities. A. D. 412.

He labours to prevent the Expelling of Infants.

19. Such Devastations were made by the Barbarous Nations, of Corn, and other sorts of Provisions throughout the Provinces, that great scarcity followed as provoked Lords of Slaves, and Patrons of Freed men, to expose such Infants as were born under their power. To obviate which Inhumane Practice, *Honorius* now thought fit to transferr the Dominion and Interest of such persons in the Children, upon those who would take, and bring them up; provided they produced Witnesses of their so doing, and reduced their Testimony into Writing, which he will have confirmed by subscription of the Bishop. "This *Fulstinian*, afterward did not so far approve, as to allow such Infant to be Slave to him that took him up; but would have him, if exposed, to be of ingenuous and free condition. There was more reason now to refrain this custom of Expelling in *Italy*, because the *Barbarians* were withdrawn, and the Country began to be a little at rest, after such Depopulations as it had undergone. And the City of *Rome* now again beginning to lift up her head, it was fit, that those multitudes which had forsaken her, and betaken themselves into the Islands, and the Eastern Parts, should return, repair her Ruins, and restore her to her former Estate. This the Emperor thought himself obliged to procure. So as, by an Edict directed to *Palmaris*, *Præfett* of it, he required, that By the Care of the Governors of Provinces, all *Corporati*, or those that belonged to the Bodies or Companies which served the Cities (as the *Bakers*, *Sharirs*, and others) should be compelled to return to their Stations, and to discharge such Functions, as anciently had been imposed on them. "Into the Country it was also fit, that the Possessors of Lands, and such as had cultivated the Grounds, should return. But many of them could not but be discouraged from returning to such places as were harassed by the late Invasions, and such Lands as were rendered barren, and could not for some time be brought in tune again. Nay, such as possessed Lands, though fertile, yet were discouraged, to think, that by virtue of the *Epibole*, or Compensation, they must be burthened with that *Census*, or Tax, which was wont to be paid by those that had been deserted, and lay untilld. To give ease in this case, and to provide for the repeopleing of depopulated places; *Honorius* rejecting the *Epibole*, and the former way of Compensation, sent Directions to *Fohn*, the *Præfett* of *Italy*, that such Lands as did not answer the *Census*, should be exactly viewed, and their Worth carefully and faithfully entred into the Cess-Books. This done, with all Justice and Moderation, they should be put into the hands of their Owners, or their Heirs; and, if such could not be found, of Neighbours or Strangers, who should pay no more than the Grounds would well and sufficiently afford. And not this neither, for some time; for, he allows them the Immunity of two Years, wherein they shall pay no Tax, the better to enable them to recover their Grounds to their former fruitfulness. L. 12. de Constit. Div. 8. l. 4. Cod. de Juss. L. 12. de Constit. Div. 8. l. 4. Cod. de Juss. L. 12. de Constit. Div. 8. l. 4. Cod. de Juss.

He provides for repeopleing of depopulated places.

20. The Wantonness and Unnaturalness of some Women, who, often having had Children by former Husbands, either married suddenly again, without a regard had to Modesty and Respect of the Dead; or, if they did not do it suddenly, yet, when they did marry had no care of their Children by the said Husbands; had formerly provoked *Theodosius* the Great to make severe Laws for restraining their Irregular Appetite. Whereas formerly, from the time of *Romulus*, it had not been lawful to marry within ten Months after the Husbands death, he made it unlawful for them to contract a second Matrimony within twelve Months, or an whole Year. Such as should dare to do it, he branded with Infamy, as they had been formerly by the Law. And further ordained, that they should lose whatsoever Goods or Estates were coming to them from such Husbands, whom they had so soon forgotten; so as not to escape this Punishment by the Rescript or Indulgence of the Prince. This Law, afterward, *Fulstinian* so far approved as to put it into his Code, yet, leaving out the last Clause of it, because he would reserve Power to himself to grant Indulgence, as of old the Senate had done during the Commonwealth, and former Emperors, when a Woman was found not to be with Child; and to remit the Infamy, and restore to Fame when he saw convenient. L. 12. de Standa. Nuptiis. Cod. Th. lib. 3. tit. 8. §. 1. Cod. Juss. de Tit. 8. §. 1.

21. Further,

Sec. 3. 21. Further, *Theodosius*, to provide that Children of the first Marriage should not be wronged, as it too frequently happens, from the Indearments of the second; enacted by another Law, that, of all the Goods or Estate that came to a Mother from a former Husband, or from any Children of the said Husband, the Property should remain to the Children of that Husband surviving; so as the Mother, marrying again, should only have the *Usus-Fructus*, or Profits thereof during her life. Only, he left it free to her to assign such Estate to whom of the Children she pleased, his design being to secure it from passing unto Strangers: which Election of the Mother, whether the married again or not, succeeding Princes thought fit to take away; so as the could only consign the Profits, during her own life, to whom she pleased; the thing it self being equally to be divided amongst the Sons after her Decease. In case one of the Children died, brothers were to succeed Brothers, and excluded the Mother. If no Brother was left, then the Mother came in with the Sisters, she sharing one half, and they another. But afterward *Fulstinian* altered the Law, so as to give the Mother leave to come in, with her Sons, to an equal share of a Son's Estate; and with Daughters he assigned her but an equal share also. This was in favour of Mothers, in comparison of the old Law and Custom, which gave Right of Succession to the Grandfather by the Mother's side, and excluded the Mother, if married again. In case a Woman had Children, she could have but the benefit of the Estate during life, if she married the second time; but, if she had none, the entire Property came unto her; *Theodosius* his intent being only to make provision for the Fatherless. And, as his care was especially for those that were Fatherless, he did not forget Motherless Children: but, betwixt Fathers and Mothers he put a difference. He supposed Fathers would be more prudent, and retain their Authority over their Wives and Families; while the weaker Sex was more subject to be overcome, by crafty Insinuations, or downright Threats. Therefore he would not compel Fathers, when they married again, to assign all that came by their former Wives, to the Children they had by them: but he gravely admonished and conjured them, by the Rights of Justice and Religion, to do that which, if good advice and fair words would not procure, then the force and efficacy of a Law must exact.

For the Rights of Mothers.

22. And his Advice or Suasory had not that effect which might have been expected, which forced his Grandson, afterward, to make good what he hinted concerning the Force and Compulsion of a Law; and thenceforth, as well Men as Women, were alike concerned and obliged. But now, in *Honorius* his time, Husbands or their Sons were become so careless and disingenuous, as to deprive their Wives or mothers, if they could of the *Usus-Fructus*, or Profits of such things, if they wedded again, though the Year was out, as had been settled upon them at their former Marriage. This constrained him this Year to take notice of it, in an Edict directed to *Fohn*, the *Præfett*; And to restrain the malapertness of such Sons as would not allow their Mothers such provision as had justly been made for them, but enquired into their Age before the Day. As he acknowledges the Property of the things to be in them, so, on the other side, he asserts the Law of his Father, and the Right of their Mothers during life. "Again, notwithstanding his late Endeavours, such Complaints were made of the Cities of *Italy* being still empty and forsaken, that he was compelled to give order to *Liberius*, the *Præfettus Prætorio*, to force back both the *Decuriones*, the *Officials* or *Apparitors*, and also the *Collegi*, *ati*; of which, there were several Companies destined to the Pleasure and Recre- ation of Cities; which now he thought fit to gratify with such Diversions, though they had their Original from Pagan Superstition. And, as if one sort of men infected another with negligence of Place and Duty, the *Agentes in Rebus* were now so guilty of this fault, that they provoked him, at the end of the Year, to command *Namicius*, the *Magister Officiorum*, to let them know, That such as had loitered after the time was out that had been given them, should return to Court, and there give an Account of their Absence, before the first day of *February* next following. If this they did not do, their Names should be expunged out of the Roll, and they should be further punished. And the Governors of Provinces, if they suffered any of them to stay and loiter within their Jurisdictions, must pay "fix Ounces of Gold for every Loiterer."

23. As *Honorius* laboured this Year for repairing such Breaches as the Misfortunes of the Wars had made; so, at *Constantinople*, his Nephew *Theodosius*, or rather, *Anthemius*, his Prime Minister, endeavoured to prevent such Calamities, which was better. It concerned them chiefly, to look to *Ibrycum*, through which so great miseries had

entred

Sect. 3.

They at Constantinople endeavour to prevent mischief arising from War.

entered into the Empire; and therefore, *Honorius*, the *Præfectus Prætorio* of that District, was enjoined to take care, that, No persons by any Privileges should be excused from contributing according to the quantity of what they possessed, towards the Repairing of Walls, and Conveyance of Corn, or other Species for the publick Defence; although Dignified Persons were wont to be excused from other Collations. The great Fear and Anxiety wherewith all persons could not but be flook, that understood any thing of the dangers that threatened the whole Empire (though the Western Provinces sustained the shock) put those that had the Government in their hands, upon the Promotion and Encouragement of all Works and Employments which tended to the Defence of the Borders. Amongst others, the making of Arms in the *Fabricæ*, or Forges, especially deserved it. But, of this an ill Use and Advantage was made by such *Curiales* as had a mind to run away from their Employments; who betook themselves to those Forges, expecting to be connived at, as being therein very serviceable to the State. Great Complaint hereof was made by those of the East; who convinced *Anthemius*, that, though the Work of the Forges was by all means to be plyed, yet the Cities must not be exhausted and ruined; for the Defence of which, the making of Arms was only designed. He procured a Rescript to be directed to himself, wherein Order is given, that, if any person have a purpose to joyn himself to the Body of the *Fabricenses*, he shall either before the Governor of a Province, or the *Defensor* of a City, prove himself to be altogether free, as to Birth, and other Obligations, from the Service of the *Curie*: otherwise, he shall be forced back, to discharge the Duties of his Country, without any Allowance to Prescription of time. And, because there were great Clamours in *Phœnicia* against *Lupianus*, the *Comes*, & *Magister Militum* through the East, that the *Curiales* of that Country were wont to shelter themselves among his *Officials*: Command was sent to him, that The principal *Decuriones* having given notice to the Governors of Provinces of such Fugitives, and they having made report thereof to him, he should transmit them to the said Governors; who, after examination of the matter should give sentence & send them back to their former Charges.

24. But having lately spoken of *Illyricum*, we must take further notice of the great Complaints which were made now also, in that too often harraided Province; which caused them at Court to bethink themselves of a new way for raising of such Provisions as they called *Annonæ* and *Species Cellarienses*, due to the Civil and Military Magistrates, or the Governors of Provinces, and the *Comites*, or *Magistri Militum*. The Law and Custom had been for the *Procurators* of the *Curie*, to take care for the leavying and payment of them in Money; but, it being discovered that more than due, was, upon this pretence, squeezed out of the poor Provincials; and that whereas, for one hundred and twenty Oxgangs one *Solidus* was but to be paid; the Avarice of the Governors and Officers was such, that they exacted as much for the half, nay, at last, for the fourth part: and this was done under pretence of the Charges that these *Procurators* or *Primates* of Courts were at. Therefore now was it ordained, that, the *Cornicularius*, or he that was next to the *Princeps* of the Office of the Governor of the Province, should, out of the publick Store-houses, furnish the Officers with Provisions; allow them Gold, as was usual, out of the Tax raised by the *Præfectus Prætorio*; and pay those in Money who should desire it, in lieu of the Provisions in Specie, according as the Market bore. If the Office of *Leontius*, who, before this, had been advanced to be *Præfect* of *Illyricum*, should fail to put this Law in Execution which is directed to him, it fenceth it to fine in fifty pounds of Gold. At the same time *Anthemius* was solicited by those of his District, against the Immunities and Protections which were granted to divers persons, whereby they pretended themselves excused from contributing to the necessary Duty of Amending of High-Ways in all the Provinces, especially in *Bythynia*. He procured an Edict to be directed to himself, for rendering null and ineffectual all such Rescripts and Immunities, and to require Contribution, according to the quantity of the Grounds possessed near the said ways, for repairing them; as also for other Services according to the quantity of the Lands where they were to be discharged. Now was carrying on a magnificent Work at *Constantinople*, called the Baths of *Honorius*, with a stately *Porticus* adjoining. But the Work could not go on to perfection, nor that Grandeur which was intended, without taking in the Grounds belonging to private persons. To make them Compensation, & that great an Ornament and Convenience to the City might not be stopped, an Edict was directed to *Isidore*, the *Præfect* of it; Whereby was made over to such interested persons, a place called the old *Basilica*; to have and to hold, to them and their

25. The

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L. 6. de Oppid. pub. Cod. Th. Dat. 15. Cal. Jun.

L. 6. de Fabri. casibus. Cod. Th. Dat. 15. Cal. Jun.

L. 17. de Decurionibus. Cod. Th. Dat. 15. Cal. Jun.

L. 3. de Erogat. Militum. Cod. Th. Dat. 16. Cal. Sep.

L. 5. de Titine Maesibus. Cod. Th. Dat. 1. Cal. Jun.

L. 1. de Oppid. pub. Cod. Th. Dat. 1. Cal. Nov. Dat. 1. Cal. Jun.

Sect. 3.

Honorius is surging.

Is slain by his Soldiers.

The Præfect takes Title.

Honorius gratifies the Provincials of Africa in matter of Sports.

25. The CCCCXIII Year of our Lord hath, in the *Fasts*, the name but of one *Consul*, *Lucius*: and sometimes, elsewhere, it is known by this mark; After the ninth *Consulship* of Honorius, and the fifth of Theodosius. The reason, for that *Heraclianus*, who had managed matters so well in *Africa*, against *Atalus*, was named *Consul* with *Lucius*: but, taking into his Assistance one *Sabinus*, his Domestic; whom, being a notable cunning Man, he made his Son in Law, he set up for himself; and usurping, his name was expunged out of the Registers. *Orosius* writes, that he kept back the Supply of Corn, by which the City of *Rome* was wont to be nourished; and thitherward failed with an incredible Fleet, which, by report, consisted of three thousand and seven hundred Vessels; a number, of which, neither the famous *Xerxes*, nor *Alexander* the Great, nor any other King was Matter, that we know by History. He landed his Men, and marched up towards *Rome*; but, in his passage, was opposed by *Marinus*, a *Comes*; who so ordered his matters against him, that he discouraged and put him to flight; so that glad he was to procure a Ship, wherein to fail to *Carthage*; and there, after a short space, the Soldiers, who judge ever of Men according to Success, revolted from him, and flew him. Some say, he was killed by some that were sent from *Honorius*, in the Temple of *Mercury*. *Sabinus* got away safe to *Constantinople*; where having continued not long, he was fetched back, and condemned to Banishment. This Year, as *Cassiodorus*, and others observe, the *Burgundians* seized on part of *Gall*, lying toward the *Rhine*. For, perceiving their own weakness, they had not any mind to struggle with, or oppose *Constantius*, the Emperor's General, but desired Peace; which he was not averse to grant, lest, by an ill success against them, he should stain the Glory of his former Actions. The *Franks* understanding what was done, and taking it in high disdain, that the *Burgundians*, an inconsiderable People, should obtain that in *Gall*, which they, by so many Invasions, had not been able to compass; suddenly gathered together, passed the *Rhine*, and, amongst other Towns, took *Trier*, which they plundered, and afterwards set on fire, not sparing the Inhabitants, of whom numbers were killed, and their Bodies lay unburied, and were eaten by Wolves and Dogs; even of both Sexes.

26. The Provincials of *Africa*, however harraided, yet were of a light and jolly humour, if the Rod was removed from their Backs but a little time. They were extraordinarily addicted to Sports and Shows; particularly those that were set forth by the Pagan Priests; who left their own Cities and Provinces, and betook themselves to *Carthage*, the *Metropolis*, where the Pastimes were exhibited in most lustre; and despoiling their own Countries, both fild land there, and got Houses wherein to inhabit. *Honorius* would not, by any means, spoil the sport of the people there, for which he had provided by several Laws; but, that the other Cities might not be deprived of their Pastimes, by the flocking of their Priests to *Carthage*, he thought fit to give Order to *Fulian*, the *Proconful*; that, These Strangers Priests should depart *Carthage* within five days after the solemnizing of their Games, or before the first of *November*. If any that did not belong to the Court of that City should be found therein after this term, he must incur a Fine of thirty pounds of Gold. But, about the same time he received Information from the *Tribunus Voluptatum* (*Diogenianus* by name, and filed *Vir Clarissimus*, whose work it was at *Carthage*, to preside over the Players, to regulate and govern both the Pastimes, and them that made them, as other *Tribunes* did in other principal Cities) that the people were much offended, for that it had been some time since practised by a Rescript obtained from the Emperor, to set loose and free from that Service, to which they were ordinarily obliged for life, the *Mimicks* that pleased them upon the Stage. He thought fit, so far to gratify the multitude, as to write back to *Diogenianus*, to force and recall to the Service such *Mime* as had been set at liberty by order of the Prince. He decrees that they be recalled with the greatest Infiance, that, as he said, no wanton Ornament may be wanting to the Pleasures of the People, and so *Effronted Days*. We cannot say whether the displeasure conceived by the people, for loss of their *Mimicks*, contributed to the Rebellion and Usurpation of *Heraclianus*; but if this Rescript was intended to quiet their minds, it came too late, and not till that Tempest was over; being by it hindered from crossing the Seas. For, though it bears date of the beginning of *February* this Year, it was not received at *Carthage*, by the *Tribune*, till the latter end of *January* following.

27. But *Honorius* employed his *Questor* at this time, in matters more serious and profitable. By Nature he was a great Enemy to the Tricks and Subtilties of the ancient Laws, and maintained a constant War against them. Particularly, as to the

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making

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L. 1. de Cons. Lucii. Cod. Th.

L. 1. de A. H.

L. 1. de A. H.

L. 17. de Decurionibus. Cod. Th. Dat. 15. Cal. Jun.

Summa inflantia. L. 1. de A. H.

Sect. 3.

Series the making of Testaments below the old and new

making of Testaments, he abhorred the wonted tedious Forms, and the vain and unnecessary Phrases and Words; resolving to give ease to the People, by Allowance of a more Compendious Way. By the old Laws *Julia* and *Papia*, Husband and Wife, could not make each other their Heir, except they had Children betwixt them. This, ordinarily, they could not do, except they obtained a Dispensation or a Privilege, which they called *Fus Liberosum*, as we have already said, which conferred on them such power, as the absolutely having Children, would have afforded them. And this privilege was of old time obtained from the People, and afterwards by Rescript of the Prince. But now, *Honorius* ordained, that if Man and Wife lovingly, and by consent, put up their Petition to the Emperor, and therein included their Testaments, which they prayed might be allowed of and confirmed; such Testament should be of force, provided the Petition could be proved by two Witnesses, although the Prince granted out no Rescript, if he did not expressly deny the Suit: for, as the Rescript would have been chargeable, so it was not convenient that the Emperor should particularly declare his Opinion, lest the full liberty of making Wills should be infringed. Testaments thus insinuated before the Prince in Consistory, he would have to be underfoot valid, and of full effect; both for the ease of the People, and asserting of the Imperial Authority. But yet, it should not be understood that this should take away the Right of any Person, or to prevent just Complaints or Claims of such as the Roman Laws allowed, to except against the Testaments, in which they themselves were passed by.

An Act of Grace for remitting of arrears.

28. This might well please the more wife and considering sort of people; but shortly after he passed an Act of Grace, which could not but give great content unto the multitude. Being satisfied how much some of the Provinces of Italy had been wasted more than others in the late Wars with the *Goths*, he had so great respect to their present condition; that for five years Dues in all sorts of Payments and Tributes, he ordered *Fohn* the *Præfectus Prætorio* to exact but one, *viz.* from the Year CCCCX to the Year CCCCXV, remitting and pardoning all the rest, except what belonged to the *Curfus publicus*, which was of such consequence, and at this time was in such a condition, that there was necessity to supply it. This plenary Indulgence he granted to *Tuscia*, *Picenum*, *Savonium*, *Apylia*, *Calabria*, *Bruttii* and *Lucania*. Which Provinces had born the Brunt in the late Invasions, but were not joined so as to make up a *Dioecsis*, or further concerned together than as to loss and calamity. This Act of Grace was of greater consequence than another Favour he granted a Month after to some of the *Scrinarii*, who served in the *Scrinia*, or Offices so often mentioned. Both *Valentinian* the younger, and also *Acadius*, had given to them all the privilege of entering the *Secretaria* of the Ordinary Judges, or such as were of the Degree of *Clarissimi*, as *Consulares* and *Præfides*, but not of these of the Dignity of *Speiabilis*, such as were *Proconfuls* and *Vicars* of *Præfects*. But now *Honorius* thought fit to enlarge this privilege to those of them whom they called *Melloproximi*, and others as far as the *Executores*; conferring on them the Title of *Clarissimi*, and giving them leave to enter the *Secretaria* of the Judges that were *Speiabilis*, and to sit with them. The *Melloproximi* were, as we have said, they that were to be *Proximi* after two years, while the office of *Proximus* lasted so long, which afterward was made Annual. *Justinian* in his time, or *Tribonian* for him, extended this privilege to all the *Scrinarii* indistinctly. *Honorius* his Hand now being in to be kind to his Servants, the next day extended the favour he had given ten years before to the *Agentes in Rebus*, of being free from finding *Trivones* and other Burthens; to the *Palatine Officers*, belonging to his two *Treasuries*; the *Adjutors* and *Primicerii* of the divers Offices, who had diligently and faithfully discharged their Duties.

Act of Isatio for remitting of arrears.

29. As he found reason to be kind to such as faithfully served him, so he had as much to be severe to those that absented themselves, and deserted their Duty. Six days after, he was provoked to send out an order to *Gaisio* the *Comes* & *Magister Militum*, requiring, that such Defertor as without leave discontinued, and lay loitering at home, or in other places should, for the first years neglect be placed below ten Soldiers next under him; for the second or two years, below twenty; for three years below thirty; and if he loitered the fourth, then be cashiered. The like severity was practised in the *Militia Palatina*, as in the *Armata*; but herein differed, that a Loiterer after four years was to suffer Regradation below forty; and then if he still discontinued, his name was to be expunged. While *Honorius* was thus employed in censuring Crimes and Defects, it could scarcely be, but that something should occur about *Africk*. And indeed such fresh complaints

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Vide L. ult. de Divor. Refcript. L. ult. de Teste Liberosum. L. ult. de Instit. Jo. ult. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 7. de Inst. gen. Dilectorum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 16. de Proxi. mis. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 10. de Palati. mis. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 16. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

Sect. 3.

The Estate of Heracianus confiscated by an Edict.

His Acts, as Consul, nullified.

Theodosius regulates the Precedence of his Officers.

plaints were thence lately arrived, as put the *Quæstor* the same day upon drawing another Edict, directed to *Fohn* the *Præfect*, for the redressing of a Grievance in that his troublesome *Dioecsis*. The Provincials were always supposed obnoxious to the *Metatus*, or Quartering, as there was occasion; but under pretence of what legally was to be demanded, too much was exacted by the Officers, both Military and Civil; the Employments of whom engaged them to be upon the Road more than ordinarily. To prevent which inconvenience, he now ordained, That such Officers as should have occasion to travel, should send no *Menor* or *Harbin*, as he before them, whom, if they so did, it should be lawful to beat or drive away, as the Country saw occasion. Neither should they exact any thing in way of Provision for Man or Horse. If a *Governour* of a Province, a *Surveyor*, an *Apparitor*, or any other Officer should do it, he fines him in the sum of ten pounds of Gold, requiring, that the use no delay, but make as speedy passage as possible; and he threatens him with punishment who shall give or contribute any thing more than ordinary to such a pretender.

30. By this time *Heracianus* the Usurper was suppressed; and shortly after, in the beginning of *August*, came out the Proclamation or usual Edict in such cases, directed to the *Honorati* and *Provincials* of *Africk*. Herein *Honorius* declared, That having judged him a publick Enemy, he had justly condemned him to be punished, by cutting off his unlucky Neck; and that in the same manner his *Satellites* should be prosecuted. All manner of persons, as well private Men as Soldiers, he invited to discover them, or any of them, and that without fear of Envy, which usually accompanies Informers. And he commanded, that such as had any of their Goods in their Hands, to make known and produce them. Thus was the Estate of *Heracianus* confiscated, which scarcely amounting to the value of twenty *Centenaries* of Gold in Moveables, and in Immoveables of two thousand pounds, was afterward bestowed on *Constantinus*, the Consul of the following Year. But with this censure the Emperor did not think him sufficiently punished. For he having been nominated Consul for this Year, and his Name being inserted into Acts and Instruments, he commanded by another Edict directed to *Hadrian* the *Præfectus Prætorio*, that it should be expunged out of all, both publick and private Writings, and his Memory utterly abolished. Moreover, that what had been done by him should be null and void; inasmuch, that though he Leave should not thereby be granted to such Lords as had manumitted their Slaves, of reducing them again into bondage; yet the Act being, as his, void in itself, should be repeated, and the solemnity of Manumission reiterated. Which was wont to be done before the Consuls, when they entered into their Office; and indeed was the chief thing wherein they were employed, as we have shewed in the Policy of the Empire.

31. In the mean time *Theodosius* in the East had no such occasion to employ his *Quæstor* in such Acts of necessary and wholesome severity. On the contrary, he passed Acts of Grace; and being not diverted by Wars or Conspiracies, had occasion to honour and reward such as faithfully served him in time of peace, of which there were such numbers, the vast extent of the Empire requiring it, that about the ordering and regulation of them there seldom wanted more Inducements. As persons of Employment, and especially Courtiers, are wont to be much concerned about place and precedence; so especially when idle, and having nothing else to divert their thoughts; and so it happened at *Constantinople* at the beginning of the year, where several of the first Order or Rank of *Comites* justified one another. This put *Theodosius* upon framing a large Constitution for regulating so high a concern, which we find directed to *Priscian* the *Præfect* of the City, though not *Priscian* the Grammarian, as hath been questioned, who taught in this City some sixty or seventy years after. Therein he determined, that the *Præpositi* and *Tribunes* of the *Scholas* (as of the *Scutarii* and *Gentiles*, formerly mentioned) who were admitted to the Emperor's Table; and had the privilege amongst the *Domestick* *Profectors* and others, to adore the Purple, as also the *Tribunes*, or *Comes Stabuli*; and he they called *Curia palatii*, who oversaw the Emperor's Buildings; if together with their Charges they had obtained, during the exercising of their places to be *Comites* of the first Rank, and perhaps had not been farther promoted, when they left their Offices they should be reckoned with, or made equal to the *Comites* or *Duces* of the Limit of *Aegypt*, and of the *Dioecesis* of *Pontica*, who, after the *Comes* of the *East*, because of the importance of their Charges (the Countries under their Command being obnoxious to dangers) had more Honour

A. D.

413.

L. ult. de Metatu. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 1. de Penis. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. 14. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

L. ult. de Comitibus. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum. Cod. Jo. de L. ult. de Teste Liberosum.

Sect. 3.

For, this very day we find another Edict directed to *Anthemius*; which makes a show, as if some of them had been turned out of their places for such Enormities: It ordains, that, in case any Provincial Apparitor be turned out for any Crime, that he continue out of Employment: or, if he think and endeavour to come in again by petitioning the Emperor, he shall not be readmitted, except the Rescript be first offered to the Prince, or his Successors, and considered of by them. Which Sanction he commands him to publish by his Edicts, to give notice to all Governors of Provinces. When they were justly put out of their places for their Excesses, they were wont, by Complaint, or some clandestine Petition, by means of some Friends, to abuse the Prince, and recover their Employments; to the great detriment of the people, and the disparagement of those that put them out. To prevent this, he will have his own Rescript for Readmission scanned by *Anthemius*; which was, indeed, as *Gothofred* observes, a great Honour to him; and a Favour, which, by his great care and vigilance for him and his Affairs, he had well deserved. But, as the Letter of the Law doth not make it any personal Honour, but to belong to his Place or Seat; so we find, that, about this time, *Anthemius* got leave to take his ease, and lay down, if not the whole care of the State, yet, the weighty and burthenome Office of *Præfectus Prætorio*; this being the last Edict we find directed to him under that, or any other Character.

Anthemius lay-
eth down.Aurelianus suc-
ceeds him.

46. For, immediately after, we find *Aurelianus* promoted to be *Præfect* the second time, and that, of the East, as may be gathered from the many Laws directed to him; who, to this Office of *Præfect*, had the Honour of *Patrician* shortly after added. The first Edict inscribed to him declares a Receiver to be as bad as a Thief, upon occasion of some Ecclesiasticks, who received and concealed things due to the Treasury. And, by his Circumspection, was discovered, that the Provincials made not near so much advantage of that Act of Grace for pardoning the Arrears of forty years, as was expected. For, the Courts of several Cities pretended they had paid before hand many Sums of Money for the Possessors of Lands (as, indeed, sometimes they were wont to do) which they doubted not but to come upon them for, and be repayed, which, as yet, they were not; and therefore, now they sued their pretended Debtors. Hereupon was an Edict drawn up, and directed to him, wherein the Emperor takes notice, that, That Indulgence which he had generally dispersed throughout all Provinces and People, some seemed so to convert unto their private profit and rapine, that those that were formerly publick, were now become private Debtors. Therefore, that the Provincials may experiment his bounty, not in word only, but in reality, he commands, that, under pretence of anticipated Payment, nothing further be exacted by any Corporation; forasmuch as they have sufficient amends made them by the benefits they themselves receive by that Indulgence, which they endeavour to violate with a Sacrilegious mind. In another matter, shortly after, he procured a Constitution to be drawn, partly to himself, and partly to the *Comites* and *Magistri Militum*, in behalf of poor Tenants and Possessors, whom the Soldiers oppressed by eating up their Grass and Meadows. Therein is declared, that no Possessors contribute more to the Publick, than what the Emperor commands to be paid by disposition of the *Præfect* yearly; and that the Soldiers shall be content with what his bounty allows them. The *Comites* and *Magistri Militum*, under whom were the *Duces*, *Tribunes* and *Præpositi*, he enjoins to let all concerned persons understand, that the Soldiers must not eat up the Grounds of the Provincials, and that a Law was gone out to the *Præfect* for this purpose; to whom he gives in the Inscription the first time, the Title of *Patrician*.

47. But, though the Direction runs thus, To *Aurelian, Præfectus Prætorio* and *Patrician*, we cannot be of *Gothofred's* opinion; who, in his Notes upon the Law, makes the Dignity of *Patrician* consequent of the other. For, the *Patricians* were a select number chosen by the Prince, out of such of the Nobility as he pleased, to whom he gave the Appellation of Fathers. Neither do we find it but very seldom in the Inscriptions of the Laws given to any; so little probability there is, that it belonged to all *Præfects*, or to *Magistri Militum*, as such; who, at this time, were many in number; several, sometimes, of the same place, in the same year: so that we are constrained, now and then, even to imagine that there were more than one *Præfect* at the same time, over the same District. More true is that Observation concerning the *Præfects* of the Cities, that they were named, and had Precedence before the *Præfecti Prætorio*, as in the Senate, the City, and the *Urbicarian* Regions, it was fit they should. For, we find another Law on the last day of October,

A. D.

415.

L. 25. de Colo-
ratione, Cod. Th.
de L. 1. Cod.
Jus. de offi.Idem, ma-
joribus m-
joribus m-
joribus m-
joribus m-
joribus m-L. ult. de Crimi-
nalibus, Cod. Th.
de L. 1. Cod.
Jus. de offi.L. 10. de Indul-
gentiis, Cod. Th.
de L. 1. Cod.
Jus. de offi.L. 4. de di-
visione, Cod. Th.
de L. 1. Cod.
Jus. de offi.Patricii Digni-
tatem sequi alie-
rius.

Sect. 3.

inferred to *Ursus*, *Præfect* of the City; *Aurelian*, *Præfectus Prætorio* of the East; and *Strategus*, *Præfectus Prætorio* of *Illyricum*, concerning the *Decuriones* of the Palace. These were a sort of dignified Officers within the Court; who, being ordinarily three in number, presided over thirty *Silentiarii*, of whom we have spoken formerly, were wont to be sent by the Emperors, upon extraordinary occasions, to suppress Insurrections; and when he or the Emperors were in their Progress, governed the Cavalcade, or manner of travelling. Now, *Theodosius* lets these three great Ministers know, When these persons shall have served their time, they shall have place amongst the *Adjuces*, as if they had been in that Actual Employment; have the privileges of adding the Prince, saluting the Judges, or others belonging to that Honour. Moreover, in the Senate they shall be accounted as *Allecti* or *Immunis* from Senatorian Burthens; particularly, that of the *Glebalis* *Collatio*.

48. The year of our Lord, CCCCXVI, had for *Consuls*, *Theodosius Augustus* the seventh time, and *Palladius*; whom we find by many Laws of this fame year, to have been also *Præfectus Prætorio*, as *Ursus* was *Præfect* of *Constantinople*. The *Goths*, in *Spain*, thought that *Sigerich*, their newly promoted King, had been a Man for their turn; but he was also inclined to Peace: and, for that reason they dispatched him after *Aetius*, and advanced into his place one *Valia*, whom some make the Son of *Aetius*. *Valia* is said to have attempted to execute the design of *Aetius*, of invading *Africa*. He got all things ready for his passage at the Straits of *Gades*, and there took Ship; but was seized with so great a Tempest, that, after many Vessels lost, he was forced to return; and then, calling to mind the ill success of *Marich*, in his Attempt upon *Sicily*, he gave over the Enterprize, and betook himself to *Constantianus*, who was entering *Spain* with an Army against him. He went to the *Pyrenean* Mountains to meet him; and, before they met, sent Messengers to him, by which he offered to restore *Placidia*, the Emperor's Sister, and to give Hostages for his peaceable demeanour; provided he might have leave with his people, to fix in *Spain*; and, for his security, receive some of the *Gallick* Nobility as Hostages. *Philostorgius* writes, that *Placidia* was restored, and *Aetius* given up at the same time by the *Goths*; who, in way of recompence, received Provisions from the *Romans*, and a portion of *Gall* to inhabit. Others indeed, write, that *Aetius*, when he was dying, commanded that *Placidia* should be restored, and that six hundred thousand *Modii* of Corn were sent to *Valia*, King of the *Goths*; whereas a Supply had been promised formerly to *Aetius*, and he made the Non-payment thereof a pretence why he did not restore *Placidia*. Great need there was indeed, that he should make an excuse for not giving up his own Wife. As for the *Goths*, their receiving part of *Gall* to inhabit; that must have been some time after.

49. *Constantianus*, no doubt, was welcome to *Honorius*, as well for his own sake, as the Lady's whom he presented: but this was not till toward the latter end of the year. At the very beginning thereof, the Emperor was put upon thoughts how to maintain those Wars which he saw there was no probability to avoid. Besides the ordinary Indiction of the usual Payments, he had been forced to lay a *Superindictum*, or some Over-charge upon the Provinces. This was no new thing, but sometimes happened when the necessity of Affairs required: but, some there were, who being ordinarily excused by Privileges, from extraordinary and fordid Payments and Services, now refused to contribute to this Over-charge; as being in the number, and of the nature of Extraordinaries. So it had happened in the Reign of *Constantianus*, the Example of whom *Honorius* now was constrained to follow, by mollifying and taking away the harshness of the word, Calling it a *Superindictum*, and a Canonical Payment: and commanding it should not be looked upon as an Extraordinary; so as all Houses should be subject to it, and no Privileges be admitted; whether they belonged to his own Patrimony, were held in perpetual Right, or appertained to private Persons. He had intelligence, shortly after, from *Constantianus*, out of *Gall*, that, upon the *Goths* quitting that Country, there were risen amongst the Natives heavy Suits and Contentions. For, when the *Barbarians* invaded the Provinces with Fire and Sword, some fled their Countries, but others met together, as they could, in Companies, and lived as well as they might in Bodies, like *Banditti*, or *Tories*; falling down, as they could, into the adjacent places, and making bold with what they found for mere subsistence, although it belonged to their own Friends and Countrymen. This was practised upon such occasions, both in *Gall* and *Spain*; and these Assemblies were called *Bagade*, which was a Name given from the times of *Diocletian* to such Companies of poor miserable.

H h h 2

A. D.

415.

L. 1. de Decre-
tionibus, Cod. Th.
de L. 1. Cod.
Jus. de offi.

A. D.

416.

Theodosius A.
Palladius

Cof.

Jureces de
Rob. Gucicis.
2. J. de
J. de 45.

L. 12. c. 4.

Olympiodorus
J. de 45.

Sect. 3.

Puffes an AR
of Oslwin
for Gall.

nable Country People as got and united together, sometimes driven to that extremity by the cruelty and oppression of the Judges. Now *Honorius* taking into consideration the late distressed condition of the *Gallick* Provinces, and of what force necessity is, when life itself lies at stake, thought fit to make an Act of Oblivion for such injuries done upon the Barbarick Depopulation, as he terms it. And he directed a Rescript to *Constantius* with the Titles of *Comes* and *Patriarch*, whereby all Processes in such cases were ordered to be stopped, and no challenge to be made for any thing so taken away, except the thing so taken could be proved still in being amongst his Goods that took the Booty, or that person that was fled.

50. The great Ambition and Avarice of Officers was now taken notice of; they were no sooner out of a profitable Employment, but they would labour and make shifts to get in again. The Roman Government was ever jealous of long continued power in persons that had jurisdiction, and not only during the Commonwealth, which would have her Officers annual, but since the Monarchy and perpetual Dictatorship. For Princes, though their own Authority was not circumscribed with any narrower Bounds than those of a natural life, yet they would not permit Provincial Magistrates to be long in Office. The reason was, left they should have too much opportunity by acquaintance and interest, to make disturbances; or by too well understanding their Trade, to make greater advantage of their places, than the Good and Commodity of the Provincials would bear. And yet a Magistrate may have too little time to be thoroughly acquainted with the state of his Province, if it be large. It is true, the Concernments of a particular City, Town or Place may be soon discovered: but those of a large District, a Diocese or Jurisdiction wherein must be great variety of Interests and Humours, could not so quickly be discerned. A sense of this caused the ancient *Romans* to continue a power over a Province to him, as *Proconsul*, the second year, to whom as *Consul* it had been committed the precedent. However, as they that are upon the place can see more than those at a distance; and experience is not at all to be run down by arguments; the Emperors, though they might make use of their power to dispense with the custom when and where they saw convenient, yet kept up to the Maxim of having the term of an Administration but short; and when once it was at an end, of not having it again renewed. But at this time the Rule was much broken, not only some persons being by the Prince his knowledge and provision suffered to reassume their Offices, but others creeping in again by sinister courses. To put a stop to which, *Honorius* now declared in an Edict to *Palladius*, the *Prefect*, that if any should endeavour to renew his power of *Proconsul*, of *Vicar*, *Consularis*, *President*, of *Comes* *Discussionum*, or *Auditor*, or of *Principis* of an Office, his whole Estate should be confiscate. Now this is understood to be meant of the same individual Office; not that a Man might not be *Proconsul*, *Vicar*, *Consularis* or the like, in another Country.

51. He was now more brisk than ever with such *Curiales* as had left their stations; that complaint which was never wanting to disturb his Ears, if any such could be light on by those of the Body, he gave them free leave, in case the Governour of the Province were not at hand, to lay hold on him, and carry him before the Magistrate, who under pain of ten pounds of Gold to be paid by him, and as much by his Office, was to finish the process, and give sentence for, or against him (that he was bound to the Duties of the *Curia*) within three Months. This was for the time to come. And in reference to what was past, if any had taken himself to any *Militia* or Office, he should substitute and maintain a sufficient Deputy in his room, otherwise he forced back himself, though he served in the Army; for which purpose he gives *Palladius* directions, that Letters be written to the illustrious the *Magistri Militum*. At this time he also refrained the charge and trouble of unnecessary reporting causes to himself, declaring to *Palladius*, that no suggestion or relation should be made to him by complaint of one of the parties only. For this was to renounce the method and course of Law; and when report was to be made to the Prince, both *Plaintiff* and *Defendants* were to have Copies thereof delivered to them, and there to make their objections or additions as they saw convenient; an offender in this point he will therefore have condemned, as to costs, and lose his cause. This he also gave in charge to *Palladius*, and being overcome with greater clamours of the *Curia*, he farther gave him order in this same Constitution, without any condition or mention of any Substitute or Deputy, about four Months after the other Law, to call back to their Courts whatever *Curialis* was in the Army, amongst the Attendants of the *Prefectus Prætorio*, or in any *Palatine* Offices or Services.

52. This

A. D.
416.L. ult. de Infirm.
ut quis quæ sit
viamus. Cod. Th.
De Cal. Mart.
ut defunctus, sup.
in temporis.L. ult. de legem
Julian de An-
tibus Cod. Th.
De. ult. Mart.
Anst. a Cod.
Th.L. ult. de De-
curionibus. Cod.
Th. De. ult. de
Th. ad. ult.
hinc discepta
Dat. 5. Nov.
Mist.L. ult. de Re-
tibus Cod. Th.
Dat. 5. Id.
Nepos.Nepos ad
viamus. Cod. Th.
De. ult. Mart.
Anst. a Cod.
Th.Anst. a Cod.
Th.

Sect. 3.

Still labours a-
gainst Oppres-
sions.Prohibits Go-
thick Fashions.Theodosius vex-
ed with the
Agents in Re-
bustances ver-
ious Laws a-
bout them.

53. This may be said of those Imperial Laws which are now extant, that the general tendency of them is to answer Complaints, and remove Grievances, and not either to enhance the Revenue, or heighten the severity of the Government; though had there been more such, we should have had them in *Theodosius* his Code. Yet in absolute Monarchies, where the Princes raise what Money they please, and their bare Edicts have the force of Laws, they are wont to have few about them that plead for the poor People, and make known their Complaints; the more usual course is to put them upon extravagancies; to cry out, that the People are too rich, that this will make them rebellious, and therefore they are to be not only clipped, or sheared, but scraped, that some of the Wool may fall to their own shares. Yet the Body of the Civil Laws convince us of another fashion at Court in those days, though the times were otherwise very bad. The Emperour was now again informed, that such Officers as were sent into the Provinces to exact or raise Tributes, were wont to stay there a long time, under various pretexts, but with design to abuse the People. He commands *Palladius* in order to prevent it, that what Officer soever, from what Magistrate soever he be sent, to raise what Revenue soever, shall within the term of a year return with his Accounts unto the Judge; wherein he shall make known what hath been exacted by his diligence, how much remains in arrears, in whose hands, and by whose fault or procure-ment it is still unpaid in the Province. If after that a year be expired, this *Rob-ber*, as he calls him, stick still in the Bowels of the Country, he shall be turned out of his place, and the chief of that Office of which he was member, shall fine in ten pounds of Gold. And if he refuse to depart, he shall be sent up in Chains to the *Apparitors* of the Provincial Judge, together with his Accusation; and if he shall not do him any service to urge, that he was put upon some other Business or Employment; it being unlawful to be *Exactor* twice together in the same Province. By this care he took to restrain those oppressions, *Honorius* could not but ingratiate himself with the Countrymen in the Provinces, and at a distance from *Rome*. But whether he did not quite lose the favour of the Inhabitants of that City, and forfeit all that affection which his other Edicts had procured, by the last Law he made this year, we cannot but question. How dear both the Fashions and Persons of the *Goths* and *Barbarians* were to the people at this time, we have already said. Nothing so ingenious and gay as what they wore; none so witty and airy as the servants that could be procured out of these Nations; a ridiculous (but usual) sign of impudent slavery from these *Barbarians*, after whom they ran a madding. Once more *Honorius* resolved to attempt to stop the humour by a third Law directed to *Probianus Prefect* of the City, whereby he forbade long Hair, and Cloaths made of Skins to be worn in the City, so much as by Slaves. If a Free Man should do it, he should incur a Mulct, and if a Slave be condemn- ed to some publick Drudgery. Concerning Skins we have seen already suffici- ently out of *Claudian*, that they were the Wear of the *Goths*. And as for long Hair, they who are any whit conversant in the Antiquities of the *Franks* and other Northern Nations, know it was esteemed a great (nay, a Royal) Ornament; contrary to the opinion of the *Romans*.

53. *Theodosius* at the beginning of this Year had some trouble given him about the *Schola* or Company of *Agentes in rebus*, which stood in great need of purging. For it was now made (however it came to pass) the *Asylum* and Refuge of lewd and idle persons; culpable as to their lives, and ignoble as to their original, even such as were sprung from the very dregs of Slavery. The Year before, the matter had been under consideration, and the Emperour had referred it to *Helio*, the *Magister Officiorum* to make Inquisition after Offenders of this sort, and remove them: but whether he not then feasible, or rather too invidious a thing for him to undertake, considering the great power of some of the *Agentes*, and the animosity which was seldom wanting to them, *Theodosius* then approved of his re- mitting the cause, so as though the *Magister Officiorum* might visit the *Schola*, yet none should have power of turning out, or disbanding, without his own especial order and authority. This by an Edict he then judged most agreeable to the Dig- nity of the Company; but now this Year being wearied out, as it seems, with Complaints, and either not willing to be troubled himself, or desirous to make short work of what he knew was not to be excu- sed, he returned back the whole power to *Helio*, both of visiting the *Schola*, and examining and turning out as he should think convenient; so as by re- moving all evil members, the Society might recover its former esteem, and be filled

A. D.
416.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.L. ult. de Rebus
in Cod. Th. De
L. ult. de Th.
red. ult. de. ult.
Cod. Th.

Sect. 3. filled with a company of honest Men. This was thought the best course, and most suitable to this time; but when one of these Edicts being contrary to another, was afterward to be taken into *Fustianus's* Code for standing Law, he not so vexed or provoked, as now *Theodosius* was, made choice of the former; not thinking fit without the Prince his special Warrant, to give any such large power to the *Magister Officiorum*.

54. *Theodosius* setting himself to reform matters belonging to other persons, resolved not to omit such as wherein he himself was concerned. As there never wanted those who would flatter the Emperors being possessed of so great power, especially such of them as too much indulged the cruelty and rapacity of their Natures; so in nothing was it more ordinary to shew this flattery, than in Wills or Testaments. Indeed *Augustus*, *Tiberius*, and *Adrian* refused to receive any thing from the Testament of an unknown person, though ordinarily it might be done. But *Domitian* seized on all Estates whatsoever, if any one Man would but step forth, and say, that he heard the deceased lay before his death, that he had made *Cæsar* his Heir; and accordingly as Princes were inclined, they either took or refused. Now *Theodosius* considering how little credit was to be given to such Witnesses as would desire to ingratiate themselves, resolved even to deprive himself and great persons of that Benefit, which to others was allowed. For whereas ordinarily a

He refused to be made Heir by virtue of a Nuncupative Will.

And other will.

Reforms the House, as to Eredi, at Constantinople.

He explains his former Act of Grace.

A. D.
416.

L. de Testamento, c. 1.
L. de Legat. c. 1.
L. de Test. l. 1.
L. de Test. l. 1.
L. de Test. l. 1.

L. de Testamento, c. 1.
L. de Legat. c. 1.
L. de Test. l. 1.
L. de Test. l. 1.
L. de Test. l. 1.

L. de Testamento, c. 1.
L. de Legat. c. 1.
L. de Test. l. 1.
L. de Test. l. 1.
L. de Test. l. 1.

A. D.
417.

Honorio A. 11. c. 1.
L. de Testamento, c. 1.

Nuncupative Will was of force, if attested by a sufficient number of Witnesses, so as to null and repeal a written one; yet if he himself, or any of the Grantees were thereby made Heirs, he resolved it should not be of force to repeal what was written, and perfectly good in Law; because perhaps the Witnesses might say, that *They heard the Party, when he was dying, name the Emperor, or some great Man his Heir.* *Pertinax* the Emperor refused to receive any thing from the flattery or boasting of dead persons, and in such cases admitted the claims and complaints of the Kindred against these Testaments, which indeed ought to have been null in themselves. But *Theodosius* would not have even authentic Testaments to take place where he and the Nobility were concerned, against the Heirs which were named by writing: such an instance of self-denial, as his Grandfather gave in that Law, whereby he refused to receive any thing by *Codicils* and *Fidei commissa*. But *Fustianus* afterward thought this opinion of *Theodosius* the younger too scrupulous and unnecessary; making the condition of the Emperor as not better, so not worse than that of Subjects in these cases. However, *Theodosius* was so free and hearty in what he did, that he directed his Edict to the People of the City of *Constantinople*, and all *Provincials*.

55. About the same time he observed, how that Provision which *Constantine* the Great had made for the City of *Constantinople*, and his Grandfather had enlarged, did not reach the ends to which they designed it. For the People receiving it in Corn, many applied this Corn to other uses, possibly some idle Spendthrifts might sell it, and their Families never fare the better for it. He resolved therefore to alter the former course, and by a Law directed to *Hisus* the *Præfect*, commanded, that for the future, no Corn should be given to any, no not to the *Palatines* of his own House, who were wont to receive this allowance amongst others. But that the whole and entire *Canon* should be delivered into the hands of the public Bakers, who, thereof should make Bread to be distributed to the several Houses; after which manner he said, the allowance given by *Constantine*, of famous memory, and enlarged by *Divus* the Grandfather of his *Piet*, ought to be expended. Till about the latter end of *July* he continued at *Constantinople*, but then removed to *Endoxiopolis*, where he continued the Month of *August*; and in the beginning of *September* extended his Progress to *Heraclea*. Here he thought fit to explain a Law; either that we mentioned which he made two years before, or some later, concerning Indulgence and Pardon of what was remaining due of publick Payments. It was a question whether the Arrears of the Provisions and Necessaries for the Army were to be underflood thereby, as well as other Charges, because none from the payment of them were wont to be excused. But he declares to *Monaxius*, that all his Subjects whom he had indulged with a Discharge of the rest should also partake of this Benefit: the Miners of *Docimæum*, *Proconnesus* and *Tross* only excepted, as they had been before out of the general Act. By the end of *September* he returned to *Constantinople*, and there continued the remaining part of the Year.

56. The Consuls of the following, or the CCCCXVII of our Lord, were *Honorius Augustus* the eleventh time, and *Constantinus* the second. *Honorius* had his

Sect. 3.

Constantinus marries Placidia, the Emperor's Sister.

Placidia's Acts in Spain.

Honorius sends Sebastian, his Procurator, into Spain.

His Instructions.

his Abode at *Reverens*, and *Theodosius* at *Constantinople*. *Constantinus*, the same day that he entered the *Consulship*, by the consent and encouragement of *Honorius*, married his Sister *Placidia*, the Widow of *Ataulfe*. And now *Honorius*, as some write, entered *Rome* in Triumph, for his Victory obtained over the *Goths* and *Attila*, who was led before the Chariot with his hands bound behind him; and, the Solemnity being over, had his Right Hand cut off for his perfidious dealing; and, possibly, in return for what he is said to have offered to the Emperor; and was confined to *Lipare*. Concerning *Honorius's* his being at *Rome* this year the Laws are silent, not one bearing date from that City; and yet, there are some extant, which mention no other place than *Reverens*. *Valia*, the King of the *Goths* in *Spain*, as well to employ and enrich his Men, as to gratify the Roman Emperor, made War against the *Vandals* and *Alans* in that Country, and that with great success, if we may believe *Stodorus Apollinaris*; who, speaking of *Ricimer*, the Nephew, or Grandson, of *Valia*, recounts what his Grandfather did in the Territories of *Tarshus*, against both these Nations; as also, in the Fields of *Agryntum*; and he compares his Acts with the famous Exploits of *Marcellus* and *Metellus*. *Isidore*, in the *Chronicon*, writes, that being called by *Constantinus* into *Spain*, he made great slaughter of the *Barbarians* there, to promote the Roman Interest; that, in *Spain*, he utterly destroyed those called *Vandals Silingi*; and so broke and distressed the *Alani* (or *Alani*) who domineered over the *Vandals* and *Suevi*: that *Attila*, their King, being slain, those few of them that remained, forgetting now the name of any Kingdom of their own, put themselves under the Government of *Gundarich*, King of the *Vandals*; who had placed themselves in *Gallia*.

57. *Honorius* not being this year disturbed with any War, had the more leisure to attend such Complaints as were made concerning Grievances and Misdemeanors committed in time of Peace. And whence should these come, but out of *Afflict*? So loud and importunate he received concerning the inequality of Taxes, and burthens lying upon Lands, that he was constrained to send away one *Sebastius*, as his general *Peregrator* and *Inspector*, with Title of *Comes* of the first Rank; a person of such repute for his integrity with him, that he gives him the Commendation of *Probatissimus*; Forbids that any other *Inspector* be sent, to undo what he had once done; gives him leave, however, to remove what had been done by others before him; and, whereas he was to examine matters relating to the Lands called *Emphyteuticæ*, which properly belonged to his own *Res Privata*, and so were under the Jurisdiction of that *Comes*, or *Treasurer*, yet he will not have the *Treasurer* meddle with them at this time; but the Possessors of them shall be relieved as others, by *Sebastius*, in pursuance to several Instructions given him, and now divided into several Laws. These Instructions in general import that he should inspect and consider the several Lands complained of; and make such an equal distribution of the Charges and Impositions, according to the nature and quality of the Grounds, as might best provide for the publick Revenue; and also, give relief to the Tenants and Possessors, by due and just remedies.

58. But, the main matter which gave this trouble was, that there were many Grounds in this Country so much harassed by War, that they were deserted, as barren and useless, and could not pay that *Centus* which, in former times, had been imposed upon them. In case these Lands were in the hands of such persons as had plenty of others which were rich and fertile, he was to consider whether the whole Patrimony, being taken together, and the barren ones added by way of *Epithole*, to the fertile, any thing was to be detracted from the usual Payment, for all. If the unfruitful and deserted were in the hands of poor Men, or those of mean condition, then, to be sure, they should be relieved. But, in case they were in no Man's possession, but wholly deserted, then should they be set over to new Owners, who should thereafter hold them without disturbance, and without being obnoxious to Payments formerly due to the Soil, except within two months the former came in, and proved their Claim. Moreover, these new Possessors should not pay any *Glabalis Collatio*, though formerly the Lands belonged unto Senators. But, if they had been subject to the Naval Function, as appertaining to the *Navicularii*, he will by no means have them freed from it. Nay, further, so great care he shews for keeping up the Duties of that Body, out of respect to Navigation and Provisions, that such Grounds as had belonged to it, and thence were subject to such Services, though they had been sold by the publick Treasury within the space of twenty years; yet will he have them drawn back, and reunited to that Charge. So full of equity and foresight was now *Honorius*, for the ease of his people

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417.

C. 1. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

C. 1. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

Seçt. 3. people, and their Supply; while, in the mean time, either he or his *Quæstor* made too bold with his Maker in the wording of the Constitution. For, declaring that, if any one should obtain a Rescript for himself for employing another Infatigable, this Rescript should be void; he is so bold as to say, *If they should obtain it from his Altars*, as being some God upon Earth. But, such Sacrilegious Terms as *Namum Nostreum*, and the like, being formerly used by Pagan Emperors, were still retained or admitted by these Christian Princes: which some deservely reckon amongst the Crimes of this Age.

59. The end of the year *Honorius* closed by a Constitution, made for the better supply of *Rome* with Provisions; of which, ever and anon, some scarcity was alleged, since such time as the Fruits of *Egypt* were diverted from it, and appropriated to the Supply of *Constantinople*. We have formerly hinted, that in the *Portus*, or Haven of *Rome* (eighteen miles distant from it) were Granaries, wherein the Corn was laid up till it could be conveyed to the City. And, for this Conveyance there was a Company or Body of Watermen upon *Tyber*, known by the name of *Candicarii*; and those, called *Menfures*, who measured the Corn when it came into Port, and when it was delivered out, to be carried up to *Rome*; besides other Officers. Now, these several Companies had their Overseers and Masters, whom they called *Patrons*, several in number; but so, as three were of more Authority than the rest: out of whom one was chosen, who, for a certain time, had the chief Administration in his hands. This Administration *Theodosius* now would have continue for five years in the hands of two such, as the Bodies of the *Candicarii* and *Menfures* should chuse, in like manner as the *Patrons* of the *Bakers* and *Smiths* had their power. And, whereas they were wont to cheat the Citizens by changing the Corn, and obtruding upon the Bakers such as they bought very cheap, in the room of the good Grain which was imported; he commands, that the Chief Patron send out privately his Patterns or Samplers of the Corn to his Colleagues, to prevent the obtrusion of any such unwarrantable Commodity. If such Master, or principal *Patron*, rightly and truly discharge his trust; by virtue of this Law, he declares him, at the end of his five years, to be Comes of the third Rank, with- out any need of procuring the Dignity by *Coclitis*, or the Prince his Letters. On the contrary, if he proved false, he condemns him to the loss of his Estate, and to serve in the Bake-house in the meanest capacity, or place of the greatest drudge. But, to add more privilege than punishment, for the encouragement of these *Patrons*, he exempts the three Principal of each Body from the jurisdiction of the *Præfectus Annonæ*, to which they did properly belong; and will have them only subject to the *Præfect* of the City, in Criminal Causes. Further, because the *Apparitors* belonging to these two *Præfects* were too often wont to wrong and abuse the *Bakers*, either by committing the same fault as the other did; or, when they brought in good Corn, exacting something of them in way of recompence: When they could be convicted of such Oppression, he condemns them to the perpetual drudgery of the Bake-house.

Y^e is left to strains the Acting of the Dux of the limit of courage is, called Ex-
præfatis.

60. *Theodosius*, this year, was in great Repose at *Constantinople*, which could be little interrupted by some Complaints that were made to him out of the East, against the *Dux* of that Limit, which formerly was called *Comagenæ*, and now *Euphratenfis*; famous for the three Cities thereof, old *Ninive*, *Hierapolis* and *Samosata*. The Complaint was, that he burdened the Provincials, by exacting of them Wood and Materials for private Baths, contrary to a Law made some eleven years ago, by *Acacius*; who forbade the practice to all *Tribunes*, and inferior *Comites*, in general; contraining them thereby, if the *Procurator* of the Emperor had not Materials for them, to betake themselves to the publick Baines. Now, the *Duces* of the Limits coming under the Notion and Appellation of inferior *Comites*, he so far confirms his Father's Law, as, by an Edict directed to *Monaxius*, the *Præfect*, To condemn this *Dux* to restore double of what he had exacted, and to abstain from such Illegal Acts, under the same penalty, for the time to come. But, this was not all the fault that was found with this person; he was farther accused for burdening the Country, in transmitting of Lyons to the Court. The Reader can hardly be ignorant how, since the time that *Quintus Mutius Severus* began the sport, in his *Circus Aëliæ*, it had been the custom for the Magistrates and Emperors to delight the people, among others, with the bairing of wild Beasts; as Lyons, Leopards, and the like, in the *Circus*, or *Amphitheatre*. This being one of the greatest instances of the *Roman* Magnificence, Princes would not permit these Beasts, which were destinated to the publick Shows, to be hunted in the

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Ex-
pate tiam
subscripta de
pæfatis Atti-
vis Attitit.

La. No. comitib.
de Tribuni La-
cære præfatis.
Cod. Lib. 7.
tit. 11. De-
5.
Cod. Leg.
Lan. Cod. Just.
cod. Lib. 1. de
fior. constata
q.

Seçt. 3. vinces by any but the *Duces* of the Limits, and their Officials; and, when any Magistrate was to exhibit them in their Games, they could not obtain them but by the leave and munificence of the Emperor, and his Letters. Indeed, it was lawful to kill Lyons, or other sorts of Beasts, when the safety of the Provincials required it; and to *Honorius* declared three years ago, that the security of the Subject was to be preferred before his own Pastimes. In an Edict inscribed to *Maurianus*, then Comes *Domefitorum*, and *Vice-Agent*, or Deputy of the *Magister Militum in Africa*.

61. For, in that Country was plenty of Lyons, Leopards and Panthers (as at this day) which it was formerly unlawful to hunt and take; though, as for Bears, it was free, in these times, for any one there to do it. And, in the Tracts about *Euphrates* and *Mesopotamia* they also abounded, to the great terror and detriment of the Inhabitants; if it had not been for the great Swarms of Flies and Gaats, which fell upon the eyes of the Lyons, allured by their splendor; and put them to such pain, that, with their paws, they endeavoured to remove them, and thereby pulled out their own eyes, as the Reader may remember out of *Ammianus*. Now, out of these Regions the *Duces* of the Limits were wont to send up these Beasts to the Court at *Constantinople*, to be baited there, as the Emperors had occasion to make these Shews; and the Cities, through which they passed, were obliged by Law, or by Custom, to defray the Charges of them, and the Officials of the *Duces*, who conveyed them. But, in any City they were not to continue above seven or eight days at the most: which term was indulged, because often in Winter they could not conveniently travel. This seven or eight days, of the Province *Euphratenfis* changed into three or four Months, and all the while exacted what Money they could for finding of the Beasts; particularly, in the City *Heliopolis*. This now, by another Branch of the same Constitution, *Theodosius* declares to *Monaxius* to be contrary to the Custom; and commands, that Those that are sent up to Court by all the *Duces* of the Limits, shall stay in the Cities no longer than seven days at farthest, upon pain of a Fine of five pounds of Gold, to be incurred by the *Duces* and their Officials.

Valentinian the third born.

Prodigies accompanying his Birth.

62. The CCCCXVIII Year of Christ succeeds; wherein *Honorius Augustus* the twelfth, and *Theodosius Augustus* the eighth time were *Consuls*. The former made his abode all the year at *Ravenna*, and the latter at *Constantinople*. This year, on the third of *July*, *Placidia*, the Emperor's Sister, and Wife of *Constantinus*, was, at *Ravenna*, brought to bed of a Son, who was called *Valentinian*, and reigned in the West after his Uncle. And, as if great Revolutions were portended to happen during his Reign, the same Month, the ninth day, about two of the Clock, happened a great Eclipse of the Sun; which several Authors mention, but none describe so accurately, as *Philostorgius*. So greatly failed the light of this Luminary, that Stars appeared in the Heavens; and so great a Drought followed thereupon, that it drew after it a great Mortality, both of Men and Cattel. At such time as the Sun was eclipsed, there appeared a certain Brightness in the Sky, of a Comick form, which some, out of ignorance, termed a Comet, though it had neither any Tail, nor so much as any Rays, neither resembled any Star; but, as a Flame arising from some Candlestick. Besides, its Motion was altogether different; for from the Equinoctial, it passed toward the West by the last Star in the Bear's Tail: and, when it had, in that manner, compassed the Heavens, then disappeared, after it had continued its Progress more than four Months. The Light it cast from it sometimes arose, as Flame doth, by degrees, to a great height; and sometimes exceeding the Magnitude of a Cone, again was reduced to the bigness thereof: nay, it was represented to view in several other shapes, which were far different from those that are commonly seen. It lasted well nigh, from the middle of Summer, to the end of Autumn; being a Forerunner of many Wars, and of an incredible Slaughter of Men, in the Opinion of the Relator; who, to this of the *Xiphias*, or *Astrum Xiphoïdes*, adds the History of another Prodigy. The year following (some say, this present; others, the preceding year) there were dreadful Earthquakes, accompanied with fire that fell down from Heaven, which seemed to cleave asunder, and put Men out of all hope of escaping, although they were more scared than hurt. For, by the Mercy of God, a great Wind arose, which drove the Fire into the Sea; and, strange it was to see Streams of Fire overwhelming the Countries like so many Waves, which presently again were quenched in the Water. During the Earthquakes, in many places, the Roofs and Panes of Buildings opened at the top, with great noises and cracks, so that they that were within could behold the Skies; when suddenly, again, they would come together, and unite, as firmly as if they had

A. D.
417.
L. de Probat.
ad fiam cod.
Thib. 15. tit.
11.

L. de pæfatis.
Lan. Cod. Just.
ex his deus.
Lag. constata q.

A. D.
418.
Honorio. A.
12. & The-
odosio, A. 8.
Conf.

Lik. 12. c. 8. A.
pad Position.

Sect. 3. never parted asunder. The same happened to Floors and Pavements: and many Granaries let down Corn upon the heads of them that dwelt below, and put them in fear of being overwhelmed; but, all on a sudden, the Chinks and Holes would again close; so that such as saw it, not would admire whence or how the Corn could come thither. After this manner *Philoforgius* related these Earthquakes to have happened; and from the dreadfulnefs and Irregularities thereof, concluded all Earthquakes, not to proceed from any natural Cause, as Water or Wind, but merely from the Will and Hand of Almighty God, for the Conversion and Amendment of Sinners.

A. D.
418.

Honorius enacts
something ex-
traordinary: as
about Testa-
ments.

63. As it doth not belong to us here to dispute about Causes or Effects of such extraordinary *Phenomena* of Nature, so, to this we know, as to matter of Fact, that dreadful Wars, and great Destruction of Men followed, not long after these Prodiges. And, although we hear of no great Motions about this very time, yet, so grievously, of late, had the West been wasted, and such loss of Men happened thereupon, and so little hope but that these mischiefs might suddenly again be renewed, as that it put *Honorius* upon making a Law about Testaments, which scarcely any thing but the Iniquity of the times can make altogether excusable. Formerly, though a Testament had been made ten years, or more, before the death of the Testator, yet notwithstanding, it might be of full force and effect; for that it was supposed to be the last, after which there was no other in being; and the Man not expressing any alteration of his Will, it was presumed he was still of the same Opinion. But now, *Honorius*, by an Edict inscribed to *Palladius*, the *Præfectus Prætorio*, declared, All Testaments made before ten years to be null and void, or absolutely antiquated: and his chief reason alleged is, for that the death of the Witnesses may, within that space of time, take away all proof of them. Considering the extreme danger Men were continually in, there was now cause to have such an Apprehension, the Lives of Mortals being now as uncertain and lubrick, as at any other are their Wills, Affections and Desires; which, in the space of ten years, may well be presumed very various and inconsistent. *Fufinian* afterwards abrogated this Law, yet he did not quite invalidate the sense and meaning of it: for, though he would not have a Testament therefore antiquated, because it was of ten years date, yet would he have it invalid if it could appear, though but imperfectly, that the Testator, after the making of it, was of a contrary opinion: So that he thought that, although in such a number of years, such a Will did not fall; yet, however, it did, as it were, reel and totter. Others have adjudged, that, in a latter Testament there is no need of any derogatory Clause, if ten years had already intervened from the making of the former. Oblivion of it being presumed from the lapse of so long a time. And *Honorius* would have a *Chirographum*, or Bond, to be renewed within the space of ten years. But, from what he ordains concerning the Date of ten Years, we may learn, that at this time the *Day* and *Consul* were wont to be set to Testaments, as otherwise it also appears; although, in the Reign of *Constantius*, it was not necessary.

L. 6. de Testam.
Cod. Tit. Dat. 10.
Cal. Jul.

L. 27. de Testam.
Cod. Jul.

Fide Gothof.
in l.

Restrain the
Avarice of
the young Court-
iers.

64. However dangerous were the Times, and the Lives of Men brittle and uncertain; the consideration thereof procured so small Abstinence, and so little Contempt of Wealth, that now again this Emperor was constrained to repress the greediness of begging Courtiers, to the covetous Appetite of whom, the Affairs of *Africk* gave some Provocation. This he did by reviving, and confirming a Law he had made fourteen years before, by virtue of which such persons could not enjoy any Estates or Goods so begged before they had been incorporated, as the word was, "or seized by the Treasury, and relation thereof made to the *Comes Rei Private*," an Inventory being had of the said Goods. But, whereas that Law did otherwise, quire, that, by a second Petition they should again be obtained by the Prince, he now so far dispensed with this second Grant, as to make it suffice if a second Address "was made for them, to the said *Comes*." This he declared in a Constitution directed to *Largus*, the *Proconsul* of *Africk*; and thereby provided also for his own Revenue, as by other Branches thereof, he consulted for the security of Possessors, against the Avarice of these gaping Courtiers, and also, the Treachery of Informers. Against the first he further enjoineth, that, Whether a simple Redscript was only obtained "for an Estate, to which the *Questor* only subscribed *Questor Legi*, or a special Admonition, as it was termed, or *Adnotatio Sacra*, when the Emperor, with his own hand signed the Paper: in both cases a sufficient time should be granted to the Possessor to defend himself, either in Person, or by the Intervention of his Agents, *Advocatus* or Tenant."

L. 26. de
Petitionib. ex
Tit. Tit. Dat. 10.
Cal. Jul.

65. If

Sect. 3. 65. If the begged Goods were in any Transmarine Province, or in *Africk* "whole year, for coming to Court, and applying themselves to, and making defence before the *Comes rei private*;" and six Months, if in any Neighbouring Province, that the accused, besides their defence, might have sufficient time to settle their other matters before their Journey. And if it so happened, that by the tricks or arts of the Petitioners they were hindered from prosecuting their Journeys, as it seems, was so ordinarily practised in these corrupt times; so as within the year, or six Months, they could not come to Court, no Prescription should be good against them. But in case the party himself were alive that owed the Goods, he positively declared, that none should beg them, except, he was convicted and condemned for some certain crime. As for Informers, he would have them produced in Judgment by the Petitioners before the Petition had any effect. He declares, that none shall make himself Informer the second time, without danger to his own person; and if he dare to do it the third, he shall be certainly punished. How *Theodosius* his Father thought fit to punish them with death, though their Informations were true (for he would have them heard) we have formerly shewn. But so careful he was of the interests of private persons, and at the same time neglected not the complaints of some whole Countries, the Grievances of which he had more opportunity to understand than he could do the Burthens of those that lay beyond the Seas. The Province of *Campania* in Italy, and two *Subarcticarum* Regions, as he calls them, *viz. Picenum* and *Tufcia* complained, that by reason of Mischiefs arising from the late Wars, there were many Lands which lay deserted, and consequently could collate nothing to the publick Tributes. In answer to this, he wrote to *Palladius*, the *Præfectus*, That without any difference made of Grounds, in consideration that *Campania* had of old born a more heavy burthen than others, and had lately been wasted by an incursion of the Enemies, meaning the *Goths*, it should pay but a ninth part of such payments as it was wont: and *Picenum* and *Tufcia* should pay but a seventh, on this condition, that all Complaints should cease concerning any deserted Grounds.

A. D.
413.

L. 12. de Pedali-
gen. Distric-
tum, Cod. Tit.
Dat. 17. Cal.
Decemb. Aññi
Cod. Jul. at
temporaria.

What Theodosius
did this
year at Con-
stantinople.

66. As *Honorius* his *Questor* was not much burthened this Year with penning Laws, so left was his Brother's *Questor* at *Constantinople*. There *Theodosius* was moved by complaint of the Cities to call back to the services of the *Curia*, such as by *Codicius* had obtained the Dignity of the *Clarissimus*, and being *Senators*: This Work from Corporations seldom failing, whatever any other did. This Dignity in an Edict directed for this purpose to *Monaxius*, *Præfect* of the *Ægæ*, (wherein he tells him, he had also written to the *Præfect* of the City) he calls an incongruous fortune for such to aspire to, though other Princes sometimes thought otherwise, and various were their inclinations, as to the Honours and Functions of the *Curiales*, as we have sufficiently seen. But as we found his Uncle very munificent and charitable in relieving the oppressed, and remitting part of the Tributes that were due to him this Year, though we find him employed in a contrary course, we cannot but think him also well employed; for if Princes do not receive as well as remit, all their Subjects must far worse for it. Besides the persons of Merchants who were subject to the *Collatio Lustalis*, it seems, there were also certain things or Lands that were obnoxious to that payment, possibly granted to the *Possessors* under that condition, or else because bought with Money, which was gained by Merchandise or Traffick. These things we find in the hands of persons of greatest Dignity at this time; but such were the occasions of *Theodosius*, that he forbade *Monaxius*, that any Merchant or Possessor of such things whatsoever, that were obnoxious to this Collation of Gold, should either out of a trust to any Patronage, or confidence, by reason of the highest Dignity, think himself excused from that Function. No, though they pertained to the House of the venerable Lady and Empress his Sister *Pulcheria*, or the other most Noble Sisters of his Piety. *Pulcheria*, who had formerly for her great Widow and Diligence been made *Augusta*, was afterward married to *Marcian*, and had an House in *Constantinople*. The other Sisters were *Acadia* and *Marina*; *Flaccilla* being thought by some to be dead before this Year, and older than *Pulcheria*. They also had Houses in the City, mentioned in the old description of *Constantinople*. And they had also the Title of *Nobilissimæ*, that of the *Nobilissimus* being wont to be bestowed by the Emperor's on their near Relations; but yet in another sense than was that of *Nobilissimus Caesar*. *Gothofred* would gather from this Law, that at this time persons of great quality practised the Trade of Merchandise in the East,

L. 183. de Di-
crimib. Cod.
Tit. Dat. 15. Cal.
Mali. Aññi
Cod. Jul.

L. 1. de La-
brati constituc-
Cod. Tit. Dat. 12.
Cal. Septemb.
Nisi ad domum
Domine ac ve-
nabilem Au-
gelle Pulcherie
Germanæ, Aññe
suu nobilissimæ
vnu jurum pla-
tatis missi re-
tineat.

Sect. 3. return to Theodosius, by the last Constitution he made this Year, he commanded *Etius*, *Præfect* of *Constantinople*, (who the year before escaped narrowly a fate, which pierced his Gown and Coat, from one that pretended to reach him a petition) that all the Lime-kills which were upon the Strand, or Sea-shore, betwixt the *Amphitheatre* and Port of *S. Julian*, (named by the Emperor *Julian* the Port of *Sophia*, after his Wife) should be removed, both for the wholesomeness of the most ample City, and the vicinity of his own Houses; so as none whatsoever should be permitted to burn Lime in these places.

72. We come now to the Year of our Lord CCCCXX, to the eight Consulship of *Theodosius Augustus*, and the third of *Constantius*; wherein *Honorius*, as formerly, held his Residence at *Revenna*, and besides, what we have said already this Year the *Persian* War was carrying on; and besides, what we have said already concerning the Military Preparations made by *Theodosius* for the Field, he thought of other ways for securing the Empire against the crafts and violence of the Enemy, of which *Constantinople* it self, and therefore much more the remote and frontier Parts, had great apprehension. By an Edict directed to *Monasius*, he gave leave to all his Subjects inhabiting through the Provinces of *Mesopotamia*, *Osroena*, *Euphratesis*, *Syria Secunda*, *Phœnicia*, *Libanensis*, *Cilicia Secunda*, both the *Armenia's*, both the *Cappadocia's*, *Pontus Polemoniacus*, the *Hellepont* and the rest, where need was, if they so pleased to fortify and incircle their Grounds with Walls. It had formerly been free for private persons to fortify their Houses, but with Restrictions; but now in a case of so imminent danger, he gave indefinite and general leave. So in our own Country, both before and after the *Norman* Conquest, multitudes of Castles were erected, and almost every private Man, if not with Stones, yet would fortify his House with Water, the Moats being still remaining in most places. But as in time of danger that may be granted, which at other times may be self prove dangerous, the wisdom of after Ages thought fit to demolish these little Holds, neither will the publick safety permit, that every one may build Castles at his pleasure, except it be in the Air. By the Constitutions of *Spain* it is forbidden either to build, or repair them, without license first obtained from the King. But now adays there seems no great need of any prohibition in this matter, since the times that Guns and Gunpowder are found more effectual against Heaps of Stone, than Bows and Arrows, or any other wooden Engines. But for the Law, of which we were speaking, the same reason that made *Theodosius* enact it, caused *Justinian* afterward to retain it, and to put it into his Code.

73. And the same happened to another Edict which *Theodosius* published this same Year upon the same occasion. *Socrates* writes, as we lately heard, how one cause of the quarrel with *Persia* arose from their taking away the Wares or Goods of the *Roman* Merchants. And we cannot say, that the Merchants were so justly served, for importing into *Persia* things that had been prohibited. But on the eighteenth of September we find an Order directed to *Eustathius* the *Præfectus* *Prætorio*, wherein *Theodosius* signifies, That he had decreed, that no Counterband Goods, or any unlawful Wares should be transported to Barbarous Nations. These Wares were, as we have formerly seen, either Instruments, or Materials conducing to War, things whereby the *Barbarians* might be armed against the *Roman* Empire, or else Commodities that would sustain and nourish them in any Hostile Actions, as Money, Wine, Oil, and such like. It is true, Commerce had not been utterly forbidden with *Persia*; but it was confined to certain places, as the Reader may remember, out of which it was not lawful for *Roman* Subjects to traffick. Now the better to prevent this mischief, several sorts of Officers were appointed to watch at the Ports, besides the *Comites* *Commerciorum*, who had, under the Disposition of the *Comes* *Largitionum*, the chief inspection of this Affair; sometimes *Palatines*, sometimes *Protectors*, and otherwile the *Officials* belonging to the *Duces* of the Limits. Before these *Protectors* or *Officials* the Emperor gives an exprefs charge, that all Mariners or Masters of Ships make Notes in the presence of the *Defensors* of the places, what Goods they have aboard, and whither they are bound; moreover, that they have not been oppressed, or forced to pay more than was due (as often it happened through the avarice of Officers) and of this Act thus made, the Original shall be delivered to the Master or Mariner, and a Copy remain in custody of the *Defensor* of the place.

74. For the CCCCXXI Year of our Lord, *Eustathius* and *Agricola* were Consuls. *Honorius* this Year made his Abode at *Revenna*, and some alteration in the

A. D.
419.L. tit. de calcis
colitur, cod. Th.
Dat. 4. Nov.
Ostob. Aug. 4
Cod. Just.A. D.
420.Theodosius A.
8. & Con-
stantius 3.
Coff.L. v. Cod. Just.
de Adificiis
privatis, lib. 8.
tit. 10. Dat. 3.
Nov. Mart.L. tit. de Li-
bra et Mis-
sura calidat.
Cod. Th. Dat. 14.
Cal. Ostob. 4.
L. v. Cod. Just.
ad tit.A. D.
421.Eustathius &
Agricola
Coff.

Sect. 3. the direction of Laws. For now did he promote *Constantius* the *Comes*, *Mæster* *Militum*, and *Patritian*, who had deserved so well of him in the Wars against *Ulfurpers* and *Barbarians* for the space of ten years, who had married his Sister, and been thrice Consul, to the highest Title and Dignity of Emperor. He himself had no Children to whom he could leave his place, and finding the times very troublesome, and to require some other person to assist, he could not pitch upon a more deserving, no, nor fitting person, he having also a Son to continue the succession, on whom he conferred the Dignity of *Nobilissimus*; and sent the Picture of the new Emperor, as the custom was, to *Constantinople*. Four Constitutions made this Year bear the name of *Constantius*, joined with the other two Emperors; or four several Laws, as they are now divided, which made up one and the same Constitution, designed to check the avarice and rapacity of such as gaped after the Estates of other persons. For this purpose *Honorius* gave in command to *Palladius*, the *Præfect*, who exercised this Office for seven years together, that if any forfeited or elcheated Lands or Goods had remained in the Hands of any persons for the space of five years, this should be a Bar against any Petition or Begging, as it was wont to be against the Treasury it self. Wherein he was not yet to exact as the old Law had been, and that which *Justinian* approved, which allowed of four years Prescription to be sufficient. As for the Estates of such as were put to death for Crimes, he prohibits all begging of them, but commands that they be confiscated, except, by the Humanity of the Laws, they be to be left to their Children or Parents; which Humanity is only denied to that of Treason.

75. But yet, more particularly, because the Importunity and Oppression of these Beggars was intolerable, he made a distinction of Persons, whose Estates were to be begged. Some, possibly, were yet alive; but not seldom hurried to Condemnation and death, by the procurement of those who thirsted after their Estates. Therefore he expressly forbids, that any thing belonging to persons alive, be begged, except they had already undergone Deportation, which always drew after it a Prescription of Estate. He had formerly ordained, that none should move him for any thing possessed by any person, but such as were convicted and sentenced; but now he thought fit to extend this further Indulgence to all that were not yet banished into Islands. But yet, though the Possessions of such deported persons might be begged, he still put this Restraint upon Petitioners, that they should make no request for any such Goods or Estate, till two years had passed after such Deportation. And again, he will not permit that any beg more than the Estate of one single person. Then, whereas it was often practised to grant away the Estates of those who would not appear upon Summons, he also forbids this practice in Civil Actions, for this reason, because the Interest of private men is only concerned in them; and in Criminal Causes, the fame of the Parties is only hurt. Neither, if a person who had contracted with a publick Officer, denied the bargain, and failed to perform it, should therefore the Treasury fall upon his Estate, or any part of it. Then further, as to the Estates of dead Persons; if they left no Heirs, they might be begged, but not else, if any Kindred at all was remaining: Yet, if, before their death, they were not convicted after a publick Impeachment; but only, after their death, were said to have committed such Offences, he forbids that their Estates be petitioned for; as the Crime, so the Punishment, ending with the Party. And, if they were impeached before their decease; yet, if their Estates were not first confiscated, he commands that they be not begged. In the last place, to curb the boldness of Informers, he ordains, that they be produced in Judgment before the *Comes* *Rei Private*, or any Grant of the Accused his Goods be made, without any Caution or Bail to be allowed; and, if they cannot make good their Impeachment, they shall be punished as *Calumniators*. However, he resolves that, after the Petition made, the Possessor of the Goods or Estate shall have a year's time to defend himself, besides what was formerly said of the Bar allowed him, in case he could plead five years Prescription.

76. These Laws, as we said, bore the name of *Constantius*, as well as others; but, as *Honorius* thought he had power enough to prefer him to the Dignity, *Theodosius*, it seems, thought he had as much reason to deny it, and to reject his picture, sent upon that occasion, according to the Custom. For, this he did, as *Philostorgius* related, and *Olympiodorus* wrote, that the Messenger who was sent to him about the Election of *Constantius*, was neither admitted, nor received by him. *Philostorgius* affirmed, that *Constantius*, as highly concerned in so great an Affront, prepared

A. D.
421.L. an. de Quis-
tationis prescri-
ptionis, col. Th.
lib. 2. tit. 14.
Aug. 4. Cod. Just.
gala compendii
an. Theodosius
p. 10. lib. 1. tit. 14.
L. 23. de Recus.
Procur. Dat.
8. lib. 1. tit. Aug.
Cod. Just.L. L. 23. de At-
tentionis,
Cod. Th.Theodosius gives
his Subjects
leave to forti-
fy their Hou-
ses in the East.Forbids un-
lawful Wares to be trans-
ported to Bar-
barous Na-
tions.Constantius, his
Picture being
rejected by
Theodosius.

Sect. 3.

Nuptias; or a Donation in consideration of a subsequent Marriage. 81. From these matters we must pass to the Coast of *Theodosius* at *Constantinople*, and see how Affairs there stood, in reference unto War and Peace. And the War we find still depending with *Perfia* at the beginning of this year, though to the advantage and encouragement of the *Romans*. We have heard from *Socrates* in short, what the Achievements of *Aracindus* were against the *Persians*; and how the Attempts of *Vitanius* succeeded against the *Saracens*, the good prosperity of both whom, were presently, as he saith, conveyed to the Emperor *Theodosius* after this manner. He had one *Palladius*, a Man of extraordinary Endowments both in body and mind, and especially of such ability in Riding, that in three days time he would post to the Borders of *Perfia*, and in so many more return to *Constantinople*; nay, he would to the other parts of the Empire pass with that expedition, that it was said of him, that the *Roman* Pale, which was large of it self, he made straight and narrow by his celerity; and as for the King of the *Persians*, he was astonished when he heard of it. However, the *Roman* Emperor when he received intelligence thereof, was not so puffed up with the Victory, but that he was willing to embrace a Peace; and for that purpose, sent away to the Borders one *Helio*, whom he very much esteemed. *Helio* undertook what he commanded, and proceeded as far in his Journey, as the place where the *Romans* had intrenched themselves, and thence he sent *Maximinus*, an eminent person, and the Colleague of *Aradurcius*, as a Commissioner to conclude the Treaty. He, when he came to the *Persian* Court, told them, he was sent, not by the *Roman* Emperor, but by his Lieutenants to make a Peace; for *Theodosius* was ignorant of the War, and would esteem lightly of it, should he once come to the knowledge of it. The *Persian* King was ready enough to receive the Embassy, and good reason, for his Army was almost starved in the Field; but his ten thousand Soldiers, whom they called *Immortals*, adorned above all others, with golden Chains, and precious Stones, persuaded him, that he should not have thoughts of peace, till they had first made an Attempt upon the *Romans*, who were at present utterly unprepared to make resistance.

Peace made
with *Perfia*.

82. The King observed their Directions, and presently committed the Messenger into custody, and sent these *Immortal* Men to work their will against the *Romans*. They marched away, and dividing into two Parties, by this stratagem intended to circumvent part, at least, of the *Roman* Forces. And they so far surprised them, that thinking them to be no more than what was contained in one of these Parties, they willingly sustained their Charge, till a certain Captain being sent by *Procopius*, one of the principal Officers, to make a discovery, by good providence from an Hill saw in how great danger his Friends now were, and fell upon the Backs of the *Persians*; so as the Besiegers were befieged. The *Romans* in conclusion utterly defeated this Party, and then fell upon the other, which designed to lie as a Reserve, which they also cut in pieces, and thereby proved those *Immortals* to be but *Mortal* Men. The *Persian* King, when he heard of the success of his bold *Immortals*, received the Message as utterly ignorant of what had passed; and told the Messenger, that he would not yield to the *Romans*, but yet embrace the Peace, and demanded wherein he might gratify him whom he had found most prudent of all the Empire. By this means not only the War which had been undertaken for defence of the Christians was put to an end in the thirteenth Consulship of *Honorius*, and the tenth of *Theodosius Augustus*; but the persecution raised against them in *Perfia* utterly ceased. Other Writers speak of a Victory obtained over the *Persians* on the twelfth of September of the foregoing Year, or the Consulship of *Eustathius* and *Agricola*; and they agree, that in this Consulship of the Emperors, peace was made. *Socrates* further adds, that for this Victory, in praise of the Emperor, many learnedly wrote, and published their Writings to the World. And amongst the rest, the Emperess her self being an ingenious person, wrote a Poem concerning this Argument in Heroick Verse. But the Soldiers returning from the Expedition, and being to be quartered in *Constantinople*, a question arose, whether those persons, to whom were assigned the Towers which belonged the new Wall drawn through their Grounds, and lately mentioned, were to afford Quarter in such cases as well as others; and the reason of the dispute was, because in the Edict made concerning that matter, they seemed only liable to annual Repairs. But *Theodosius* now on the third of March declared, That such Towers ought to be obnoxious to receiving of Soldiers, either returning from the Expedition, or going to the Wars, on the first Floors, or those next to the

A. D.

422.

Socr. lib. 7. c. 19.

idem l. 7. c. 20.

lib. 7. c. 21.

l. 13. de Men-
lis. Cod. Th. de
l. 1. Nov. Mut. et
l. 7. Cod. Juh.
indist.

Sect. 3.

the Ground; neither ought the Possessors of them to take it ill, seeing that private Houses were also subject to this burden."

83. It concerned him to take care for Soldiers, by the care and endeavours of whom, he and all his Subjects enjoyed in quiet what they had. For this reason, the *Roman* Laws gave them privileges in many things above all other Men; particularly they in their Expeditions might make Testaments which should be in force without the usual and requisite Solemnities, and though by the Laws all Fathers had their Sons as long as they lived so fully in their own power, that, not very much unlike slaves, though called *Liberi*, whatever by their labour and industry they got or acquired, they acquired it for their Fathers, who alone had the propriety of it; yet what Soldiers saved of their pay, or otherwise got as Soldiers, they had propriety in it, and peculiar to themselves, it being called *Castrensium Peculium*. Now though the Soldier seemed (especially in Martial times) chiefly to deserve this encouragement; yet afterwards when what was got by War, was found to need preferring by Civil Ways and Methods of Peace and Laws, it was thought fit also to confer like privileges on such Gown-men as did preserve and govern what the Sword-men had obtained. The Girdle was first the Badge and Ensign of Military Men; but at length by degrees it was worn also by *Palatine* Officers, by Magistrates of Provinces, and Lawyers who had a *Militia* of their own, and were said also *Militare*: last of all, Ecclesiastical Persons assumed the Girdle, to whom though it seems now peculiar with us, yet in the Neighbour Nation it is still worn by the Advocates, and the Kings Counsellors, as they are called. And as these persons received the Badge, so also the Emoluments of the *Militia*; as the Shadow or Circumference, so also the Substance. For, in imitation of the *Castrensium Peculium*, it was first granted to these that were *Præfidi*; as to *Governors* of Provinces, *Præconsuls*, *Presidents*, and all others, who being placed in divers Dignities and Administrations received Salaries from the Prince, to have and enjoy such sums of Money, or other advantages they had got in their places to themselves, so as they might dispose of them by Testament; and this was called *Quasi Castrensium Peculium*.

84. So stood matters before the time of *Constantine*, by the ancient Laws and Constitutions of Princes. Afterwards that Prince thought fit to grant the privileges of *Quasi Castrensium Peculium* to all his *Palatines*. And after such time as the *Præfidi* Pretorio came to such height, that they were esteemed in a manner Kings without Purple, the same privilege (as several others to those about them) was granted to the *Advocates* that pleaded in their Courts. *Theodosius* this Year finding things in this posture, was easily inclined to be kind to, and confer on the *Assessors* or *Assistants* of *Governors* of Provinces the same Prerogative. But *Augustus*, though he first of all assigned Salaries out of the publick Revenues to *Præsidents* of Provinces; yet took no care for their *Assistants*, who were paid by the Magistrates out of their own Purves, till *Pelagius Niger* assigned them Salaries to remove the burthen from those they assisted; and that for this reason, because a Judge ought neither to take nor give. These Salaries or any other profits they honestly made of their places, *Theodosius* now thought good to ascertain to them, that they might have as much propriety in them, as after the death of their Fathers; and that they might challenge and recover them to their own use, as their own Estate. And further, by the same Constitution directed to *Eustathius* the *Præfidi*, he told him, that not only in his Court, but in all other Courts of Justice, such as were of that Profession, or were *Advocates*, and had Fathers living, should after their death obtain, as a *Quasi Castrensium Peculium*, whatever they had got by it, or by occasion of it. Now as by their Profession they got their *Feet*, or *Honoraries*, as they were termed; so by occasion of it they received Presents from the Emperors, which, as New-years Gifts, they were wont to bestow on deserving persons on certain days. But whereas this Constitution speaks of their coming to the possession of their *Peculium*, after the death of their Fathers, it hints this to us that all that had this privilege had not power of making a Will before their Father's death, but only came to the full possession afterward of their *Peculium*; so strict and severe were *Romans* in keeping up paternal awe and reverence. But afterwards *Justinian*, to all those who had the Right of *Quasi Castrensium Peculium*, gave this Indulgence, also of disposing of it by Testament before the death of their Fathers.

85. The common Concern of Learning will not suffer us to pass by another Edict, and the last of this Year, directed by *Theodosius* to *Florentius* the *Præfidi* of *Constantinople*,

K k k 2

D. A.

422.

l. 2. de off. off.
off. Cod. Th. l. 1.
lib. 12. de l. 1.
Cod. Juh. ind.
lib. 10. Cod.
Juh.

l. 3. de Pall.
l. 2. de off. off.
lib. 12. de l. 1.
l. 4. Cod. Juh.
de off. off.
lib. 10. Cod.
Juh.

Seçt. 3. *Constantinople*, in consideration of the merits of *Macrobius*, now the *Præpositus Cubiculi* of the Emperor. This *Macrobius* is rationally thought to have been no other than *Aurelius Theodosius Macrobius*, the Author of the *Saturnalia*; for that this Author lived at this time, all generally agree, and the last name of all was wont to be taken in Inscriptions for the proper name of the Party, as *Macrobius* is here; the times do very well agree, and in the Title, or Frontispiece of his Book he hath given him the Title of *Julianus*, all which do very well suit with the wording of this Law. Besides, the Author of the *Saturnalia* confesseth himself born in another Climate than that of *Latiun*; and that therefore the Vein of the Latine Tongue might not always possibly assist him, whereby may be very probably gathered, nay, presumed that he was a Subject of the Eastern Empire, and naturally spoke and wrote *Greek*. But for his sake, as the Emperor declareth, (though he was not his Tutor, nor brought him up) did he now make the *Præpositus Cubiculi* equal with the three superior Dignities of *Præfectus Prætorio*, *Præfectus Urbis*, and *Magister Militum* (as we have formerly laid in our *Apparatus*, or view of the Polity of the Empire) though formerly he was below the *Consistorium Comitum*. Of these four, each should take place as he was preferred, whether in saluting (or adoring) the Prince of which we have formerly written, or in solemn Feasts and Meetings as these belonging to the Consuls, Assemblies of the Provinces, or Salutations of the Judges, whom some had the privilege to kiss. But this is on condition, that they be in their proper Habit, or the accustomed Dress: for to every Dignity were Habits and Ornaments appropriate, without which, whoever came to any solemn Assembly, was neither fit, nor wont to be admitted, especially in the presence of the Prince.

Theodosius still redoubles Circumstances.

86. In the *Fasts* or *Registers* of the Year **CCCCXXXIII**, *Aclepiodotus* and *Marinianus* are found to have obtained the Dignity of Consuls. *Honorius* still continued his Abode at *Ravenna*, and *Theodosius* staid at *Constantinople* till the Month of *August*, and then removed to *Eudoxiopoli* for some time. While he continued at *Constantinople* at the beginning of the Year, he considered how Countrymen were obliged by the Laws to provide Provisions for his Palatine Servants, or Money in lieu of them, which certain Officers being fent to exact, very much oppressed the People. Therefore he gave order to *Aclepiodotus* the *Præfectus Prætorio*, as well as Consul, that to prevent this oppression, he should cause these Provisions to be valued, and taxed in Money, as those of the Soldiers were wont to be. And because many now adays refused to contribute toward the repairing of Bridges, pretending it was a sordid Employment, or Contribution, he declared to the said *Aclepiodotus*, that it should not be taken for sordid, being such, as together with the making of High-ways were dedicated by Inscriptions, even of great Princes. Therefore would he not permit that any sort of persons should refuse to contribute to these Repairs, no not his own Houses, or these belonging to his Patrimony, nor the venerable Churches. And he commands the *Præfect*, that to the end that High-ways be conveniently looked to, as in ancient times; this Law shall be intimated to the Judges of all Provinces, without any respect had to any Reverence or Dignity. The *Persians* and other Enemies were at present, quiet; but none could tell how long they would so continue; and therefore as for the publick security, it was requisite that Bridges and Highways should be kept in repair, so, more especially that the Borders should be well defended. To this end many Castles, as we have said, were placed upon them, and the Grounds belonging to them were of ancient times assigned over to the Soldiers belonging to these Borders and Castles. But also at this time private Men, or Soldiers who did not belong to the Castles and Borders, by some means or other got these Lands into their possession. To reform which Abuse, he now declared, That such persons should found upon them should both forfeit their lives, and undergo the loss of all their Estates. And this he signified to *Aclepiodotus* by the Title of *Præfectus Prætorio*, and Ordinary Consul.

Provides for the strength of the Borders.

87. Hereby he did Justice to, and obliged these Soldiers whom it most concerned him to gratify; and by another Edict directed to the same person much about the same time, he could not but please the best and most ancient Military Men, making a distinction betwixt them and the Juniors, or ordinary foot. For whereas of late years it had been the custom for the Provincials, instead of Soldiers Cloaths, to pay Gold into the Emperor's Treasury, he now orders *Aclepiodotus* to pay of this whole Receipt, five parts to his most valiant Soldiers, as he calls them, and the sixth to the *Gymnæarii* (whose work it was to make Cloaths) wherewith they in

A. D.
422.

Lib. 1. pref.
Magist.
Edit. Lagadani
Balaunus.

Laude Prae-
fecti sacri cubi-
culi, Consul. lib.
5. tit. 8.
L. 1. Cod. Jul.
hinc interpolata
est, restita post-
viam parte. Dat.
8. Id. Novemb.

A. D.
423.

Aclepiodotus
& Marinianus
no Call.

L. 2. de Eri-
gationibus
vii. Annus &
L. 1. Cod. Jul.
testis. Dat. 6.
Cal. Mart.

L. ult. de Bi-
nariis
monetis, Cod.
Theod. L. 1. Cod.
Jul. de priv.
den. sig. & L.
7. de sacris Ec-
clesiis, Dat. 1.
Cal. Mart.

L. ult. de detri-
mentis, Cod.
Theod. L. 2. Cod.
Jul. de iudiciis
improvisis,
Dat. Non. Mart.
Aclepiodotus
L. P. & Conf.
art. 2. cap.

L. 1. de Milita-
ribus, Cod. Theod.
& L. ult. Cod.
Jul. ad. tit.
Dat. 7. Id. Mart.

specie

Seçt. 3.

Gratifies his
old Soldiers.

specie should furnish those he terms *Funiores* (Thrones) and *Gregarii*. This he did, because he had more belief of the care and prudence of his best Men, than of the fresh-water and foolish in such cases. Yet he had more confidence in Soldiers, than he had in some Civil Officers at this time, if we may call them Officers. There were, as seldom wanted, great complaints now against such as attended the Governors of Provinces, and by name, against those they called *Domestici* and *Cancellarii*, which grew to continual and importunate, that he expressly forbade, That any Judges should carry such with them into their Provinces, or receive any commended to them for that Name and Employment, under pain of Infamy, and a Confiscation of Estate. But that by care of the *Præmors* of the Office, the *Cancellarii*, or Chancellors, should be chosen, (out of the Body of the Officials) and placed with the said Governors; but so as for three years, they should not depart out of the Provinces, after their attendance expired, that they might be exposed to the Accusations of the Provincials, if need should be, and to detect the faults or corruptions of the Judges, and that by being liable to the Question or Torture.

A. D.
423.

L. 2. de Offi-
cibus, Cod.
Theod. L. 1. tit.
12. & L. 2.
Cod. Jul. ad. tit.
de. Dat. prid.
Cal. Jan.

88. These *Domestici* were a sort of Attendants on the Judges, even Military as the *Duces*, as also on the *Principes* of the *Agences* in *Rebus*, not for the dispatching of publick, but private Acts. And there were many things common to them with the *Affessores*. Both of them were forbidden to buy, or receive any thing by way of free gift, in the Province of that Magistrate to whom they belonged. They were both prohibited to marry any living in that Province. The Thefts or Rapines of both were to be restored four-fold. But they were to be chosen according to this Law, whereas the Magistrates themselves might chuse their *Affessores*; only the *Domestici* belonging to the *Præmors Agencium* in *Rebus*, was chosen by the Prince himself, and might twice execute the Office, which to the other was unlawful. The *Cancellarii*, or Chancellors, so called in this Law, were, as originally, so now, of mean condition or quality. It is evident from *Agathias* and *Cassiodorus*, that they had their Name from the *Cancelli*, *Latice*, or through pierced and carved Walls and Doors, of which in the *Secretaria* or Courts of the Judges they had the care. For besides the *Velum* or Hanging in these *Secretoria*, there were such Partitions of Wood to keep off the people, through which, when occasion was, the multitude might look, and if the case required it, the *Velum* only drawn, would intercept their view. Such was their Employment, as *Cassiodorus* describes it, to which other Authors sufficiently attest. As they were entrusted with the *Secrets* of the Magistrates, by degrees, and in process of time they were employed in greater matters, than to keep the Doors, and by little and little their Name or Title came to be given to the greatest Officers of State, after the decay of the Western Empire, who, as ashamed of the original of the word, were willing to admit another derivation, not from the *Cancelli*, but a *Cancellando*; from cancelling what was done amiss by Princes after they had looked over their Acts and Writings, and giving order in what was to be done. Indeed *Cancellum* (*Cancellare*) is used in the Art of regulating Bounds and Limits of Grounds, so as to delineate or draw lines oblique and transverse; and so in cancelling or blotting out Writings, the pen is wont to be so carefully carried, as to make such Shapes and Images of Lines as were in carved Walls or Doors, or the *Cancelli*. But whether so great Officers of State could probably receive their name from undoing, rather than doing, from oblitterating rather than ordaining, let those consider who think it worth their while to amuse themselves in the Inquiry.

Vide tractatus
inquis tit. 1.
Goth. lib. 1.

Van. tit. 1. §.

honores in his
last Year
makes Acts of
Grace in be-
half of Pro-
vincials.

89. This was the last Year of *Honorius*, and he began it well by amplifying an Indulgence given by him to the *Urbicarian* Regions. He had formerly granted a pardon throughout these Regions for all Arrears due for such *Annonæ*, or such *Provisiones* as were wont to be paid (for maintenance of Soldiers, and other persons, the service of whom was necessary to the Common-wealth) to the Recit of the illustrious, the *Præfectus Prætorio*. Now he thought fit to extend it to what was payable to his two great Treasurers themselves, either *Largitionum*, or *Rei private*; for he would not have such Lands as were holden in the way of the *Emphyteusis* to be excepted from this Indulgence. Now take notice; that these *Annonæ* which were paid throughout all the Provinces of course, are by all means to be distinguished from these *Annonæ* which were paid in for the Provisions of the Emperor's own House, by those Provinces of Italy which had the name of *Annonaria*, upon that occasion. This Constitution is singular, and alone in this, that

L. 1. de Indul-
gentiis, Disti-
bus, Cod. Theod.
Novell. 6. §. 1.
Fabr. Anst. 2.
Cod. Theod. ad
temporalia.

at

Sect. 3. at the foot of it it is said to be *Regesta* on the eighth of *February*, being directed to *Rufinus*, now *Comes Sacrarum Largitionum*. But, thereby is no more meant than this, that it was entered or recorded in the Books of the said *Comes*, or referred or reduced into his *Gesta*; which, from these and other References, came to be called *Registra* or *Registres*, as now they are; though in those days, whereof we write, the Books of the great Officers as well Military as Civil, as of the Scribes of the City of *Rome* were called *Regesta*, as they that entered the Edicts, or other matters, were thence named *Regerendarii*. He had, as was convenient, still a regard to the maintenance of Military Men; and therefore, whereas, upon the Borders, Grounds or Lands had been, by the Emperor's Appointment, assigned over to Soldiers, he confirmed to them the Dominion of such as they had in that manner obtained; and, except any of their Fellow Soldiers had been before them, or confined over the Possession of the said Grounds to other Persons, he confirmed them in the Possession. And, he concludes his Sanction with such expressions as are scarcely Christian; however, his *Quæstor* found them amongst his Records: that, if any, after this Definition of his *Nomen*, should seize upon such Grounds as were comprehended in the present Form of his *Oracle*, he should incur a Mult of twenty pounds of Gold.

A. D.
422.

L. 1. de Rei Ven-
dicatione, lib. 2.
tit. 23. Dat. 5.
Cal. Mart. Abiss
a Cod. 742.

L. 4. de Collatione Donatarum, Cod. Th. P. P. in foro Trajani, l. 4. Col. 7a.

And of
ers upon
limits.

Concerning
the manner of
proceeding in
Criminal Cau-
ses.

90. But such diff'res there were about those Grounds which he and his Predecessors had granted, and to ill use made of them for the advantage of the Government, that, at this time, he was urged much by those about him to pass an Act of Refumption, and take them again into his own hands. He was so generous, as utterly to reject their motion, however the dangerous condition of the times might have perswaded him to it: nay, he became so far relolved against this practice, as to confirm to the Owners what had formerly been given and granted to them. But he thought it prudence, withal to ordain, that, certain cases, Relief should be granted from those Tenants or Possessors, when extraordinary necessity of Affairs, pressed unto the State. Yet, if a person had not enjoyed such Lands the space of five years, he should no way be forced to such Contribution. If he had enjoyed them above five years, but not ten; then he should only pay one years Pension: but, if ten, and more; then only that of two years. This was thought an Act of great Moderation, considering what was wont to be practiced in the like sort. The Judge that shall ordain, and him that shall exact more than this, he fines at sixty pounds of Gold. And all the Palatine Officers of *Trigetius*, the *Comes Rei Private*, to whom he directs the Edict, he subjects to the same penalty, to whatsoever of his *Scrinia* they belonged; for he had four *Scrinia*, *scilicet*, *Insuficiorum*, *Rationum*, *Securitationis* and *Legationum Privatarrum*. And, not only subjects them to the same Mults, but also, deprives the *Primates* of the several Offices of their Girdles: and, in conclusion, he commands, that, to cut off all fear from the Provincials, all the Books of Registers, wherein greater Summs of the Collation were allotted, shall be burnt: as also, such persons as shall dare to produce any Testimonies of such Collation.

91. Being now ready to leave the World, the last thing he did in this nature, was to take order, as much as in him lay, that other persons should not be forced to leave it before their time, or without a due Course of Justice. For this purpose he published a large Constitution concerning the manner of proceeding in Criminal Causes, and directed it to the *Confuls, Pretors, Tribuni Plebis* and his *Senate*; to which, as an Oration, it is principally directed; and, not without reason; for, in the first place, for the security of persons of that Order, it confirms the Law made by *Gracian* nigh fifty years before, concerning the *Quinquaginta Fudium*, or the Tryal of *Senators* by five persons: to which he declares, that These five persons shall be chosen by lot, and not designedly, or picked out; both because he thinks that none can be taken amiss out of so noble an Assembly, which consisted of the greatest Men, for Worth and Estates, of all the Empire; and especially, that there may be no supposition of partiality. But, for the preservation of the Lives and Estates of others, he farther reinforced the ancient Laws. So as he that was accused should not therefore be received into the number of guilty persons, which less be condemned, or committed to custody. But, that the Accuser, being present, should make the usual Inscription before the Judge, of submitting to the same punishment; and, till the Tryal was over, kept in custody as well as the person he accused: but yet, according to his Quality, the Laws making distinction herein, as to Free Custody, and Confinement, as we have formerly seen. But, in the next place, he declareth, that No Credit shall be given to a

Lult. de Juris-
ditt. &c. Dat. 8.
Id. Aug. Abest a
Cod. Just.

Lult.d. Accu-
sationibus, &c.
Cod.Th.&L.17.
Cod. Just. de Ac-
cusationibus, &
Lult. de Calum-
niatoribus.

CHAP. III.

Sec. 3. ny one, who, being examined by Torture, and therein confessing, as to himself, accuseth other persons. This had been formerly Law in part; and, for this reason, because he that already despair'd of his own life, should not bring into danger the lives of other Men: but this Emperor enforceth it upon this further Consideration; that, in Torture, Persons being desperate, commonly accuse others; that, by naming greater than themselves, they may get some favour, and evade punishment; or to ease themselves, by procuring their Enemies to partake with them in misery and torment. For this reason he will have no faith given to such persons, although they produce Commonitories, or secret Mandates from their Afficiaries whom they accuse.

92. So much did the ancient *Romans* attribute to Modesty and Gratitude, that *Liberti*, or who, being formerly Slaves, had been made free, through the goodness and bounty of their Lords, were obliged to demean themselves thankfully, and with respect to them; so that, if they offered them any considerable Offence or Injury, they had an Action against them, called *Actio Injuriæ*; whereby they recovered them again to their former Bondage and Slavery. *Constitutio* the Great had reinforced and quickened the Law, so that Ingratitude against Patron should be reinforced, and quickened the penalties of it to that against themselves. But now *Honorius* farther extends the Law, so that if they accused their former Lords, but be bound to shew the same reverence to the Heirs, as to the Manumitters themselves; and, that the Action should as well belong to them as to the Patrons; and if the *Liberti* presumed to accuse them, they should be obnoxious to the same punishment, as if they had accused their Patrons, as to any Crime but that of High Treason. Now, as to Heirs, *Honorius* understood all others, as well as Sons. *Valentinian* the third afterward thought fit to take from them all indifferently, except the Patron, the Action of *Ingratitude*, and leave them to Common Law, or that of *Injuriæ*; but, as to Accusation, he distinguished betwixt the Children of the Patrons, and their Remote or Foreign Heirs; forbidding only that they should against them bear Testimony in any matter. So, of old, by virtue of the Law, *Alia Sextia*, it was only permitted to Sons, or next Heirs, to accuse their Father's *Libertus* of Ingratitude, although the *Libertus* could not implead any remote Heir of his Patron, without an Edict first obtained to enable him. But, as to what is said concerning Accusations, the case of High Treason is to be excepted. In others, *Liberti* had been wont to be produced against their Patrons. *But Honorius*, by another Branch of the same Constitution, expressly forbids that they either voluntarily impeach them, or be produced as Witnesses against them.

93. This year some unfortunate differences fell out betwixt him and his Sister *Placidia*, which flew to that height, uncertain it is upon what occasion, that he suspected by him for inviting Enemies into the Empire, he desired leave to depart with her two Children, *Valentinian* and *Honorio*, into the East, and was kindly received by her Nephew *Theodosius*, though formerly he refused to own *Constantius*, her Husband, for Emperor. Not long after their leaving of the West, *Constantius*, her Brother, left this World, dying in the Autumn of a Dropsie; though, to the day, Writers do something differ, some assigning the fifteenth of *August*, others the twenty (seventh) some lay, he died at *Rome*, and was buried at St. *Peter* in the one and thirtieth year of his Reign, if we reckon from the time he was made *Augustus* by his Father, whom he outlived about twenty eight years, and about eleven months; and lived, in all, about thirty nine. His Character is various, according to the Humours and Affections of persons. The Greek Historians, according to that wrote of the *Byzantine* Empire especially, cannot afford him one good word. Those that lived in his own time commend him for his Contancy in the Orthodox Christian Religion, and esteem his good success as given upon that Account. And indeed, his Success was rare against the *Barbarians* and Usurpers of his time, whom, by his Captains, he had the better at last: and no Christian Emperor found to have, by his Officers, extinguished more Rebellions. And though he himself did not fight, yet he had so much courage as to oppose and punish his greatest Captains when offending; nay, even *Silichio*, his Father in Law, whom he neither spared, nor his Family. Yet however, his Reign was unfortunate, in that *Rome* was first of now all taken by the *Goths*; the *Huns* invaded *Pannonia*; the *Vandal*s, *Alans*, and *Suevi* pierced into *Spain*; and the *Goths*, having formerly invaded that Country, fixt in *Gall*: where all, the *Burgundians* seated themselves.

94. Many Laws there are in the Code of *Fustinian*, which bear his Name as w

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L. L. 1. 2. de Li-
bertis de Estro-
Liberis, Cod. Tb.
lib. 4. tit. 11. &
L. 3. Cod. Fast.
cod. tit.

of Lult. Ne prae
ci crimen Majesta
tis, &c. Cod. Th.
& L. 12. Cod.
er Just. de Testib.

RT called in Chris

transitive verb

His Character

Sect. 3.

Some Laws
made in his
time without
Note of time

as that of *Theodorus*, but without any Characteristick Note of *Confuts*, or day, or month. One of these we cannot but take notice of, as made in favour of Illustrious Persons, and respect to their Dignity. This exculceth them from giving in Bonds, or putting in Bail, either in a Civil or Criminal Action; but requires of them a Juror's Caution or Oath: which, if they neglect, and, contrary to the said Oath, they and their Proctors be absent; in Civil Matters the Judge shall proceed according to Law; that is, to put the Plaintiffs into Possession. In Criminal Causes they shall be denied all Privileges arising from their Dignity, as perjured persons, and left to what the Law ordains for other persons in such cases. But, except the Sentence of the Judge be passed in Writing, they shall not be bound to any Appearance. For, the Wisdom of these Times thought fit, that Sentences should be read or recited out of a Writing, as thereby more solemn and certain, and not subject to the extraordinary Extravagance of a Judge. That this was made by *Honorius* we cannot say; but the Subject of another perfwades us that it was ordained for his Western Part of the Empire, which stood most in need of Soldiers; and consequently, had the greatest reason to see that they should not be defrauded of their Provisions. In order to this the Emperors ordain, that, If their Corn and Provisions be drawn off to serve the ends of others, such as traffick for them self of greater Quality, shall undergo Proscription with the loss of all their Goods: and if of meaner condition, shall forfeit their very Lives.

A. D.

416.

17. de Dignitatibus, Cod.
Fast. Lib. 12. 1.

S E C T. IV.

The Fourth Step to the Ruin of the Empire in the West.

From the Death of Honorius, and the Government of Placidia and her Son, to the Irruption of Attila and the Huns into the Empire.

Containing the space of Nineteen Years.

1. **B**efore *Honorius* his death, *Placidia* and her Children, as we said, upon some Misunderstandings, had broken themselves, to *Constantine* *Honorius* left no Children, had succeeded him, nor designed any other to the Supreme Dignity before his death : who, for advantage, to be encouraged one *Fohn*, a Man of obscure Original, but *Profectus* *Prætorius*, we have seen, in the foregoing year, him the Imperial Title . He sent away presently his *Senators*, as to us, to be would have them accounted, to *Theodosius*, to declare that he would own and declare him Emperor. *Theodosius* had, before this, received the News of his Uncle's death, but, for urgent reasons, concealed it, as *Socrates* relates, till he had sent a Power of Men to *Salona*, a City of *Dalmatia*, to secure the Borders of the Eastern Empire, and repress any that should usurp or be tumultuous in that Quarter. *Cedrenus* writes, that, upon the report of *Honorius* his death, there was a Tumult at *Constantinople*, which continued six days together : but we see no reason or occasion of it, but we may suppose it in favour of *Placidia* and her Children. At first *Theodosius* did not much regard the Uprising of *Fohn*, as judging him a Man altogether inconsiderable. But, when he saw him to bold as to send to him, and considered the greatness of his Demands, he was much incensed ; and, treating his Messengers very roughly, sent them away with as unpleasant an Answer.

*Join, the late
Præfilius Præ
1919, usurps.*

Lib.7.c.23.

CHAP. III.

Sect. 4.

Answer. *Fohn* was not much concerned at the report of it, being encouraged by two notable Men for Wildom and Valour; by the Assistance of whom he had taken the Imperial Habit. The one of these was *Cafpinus*, not long since returned out of Spain, and designed Consul for the following year. The other *Asius*, the Son of one *Gaudentius*, born in *Scythia*; who arrived at the Dignity of *Magifter Militum*, and married an *Italian* Lady, Noble and Rich. *Cafpinus* he made *Magifter Militum*; and, on *Asius*, who had been Hostage both with *Alarich* and the *Huns*, and afterward was raised to be *Comes Domesticonum*, he conferred the Honour of *Cura Palatii*. Him he sent into *Pannonia*, with a great Summ of Gold, to purchase the Favour and Assistance of the *Huns*, with the Commanders of whom he was familiar; with farther Instructions, that if the Forces of *Theodofus* should march for *Italy*, he, with his Troops raised out of that fierce Nation, should fall upon their Rear, while he himself charged them in the Front.

2. For the Year of our Lord CCCCXXIV, *Vistor* was Conful, and *Cepit* rather defigned than really fuch, being the chief Miniſter of the Ulfurper. *Theodofus*, however he had conceived prejudice againſt *Conſtantinus*; yet now, when a Stranger and Ulfurper interpoſed, was concerned for his own Fleſh and Blood: and, having treated the Meſſengers of *Fohn* in a very diſobliging manner (*Socrates* faith, by committing them to Priſon; *Philorgorius*, by baniſhing them into *Proponis*;) he had fo far provoked the Tyrant, that there was no going back; and therefore he reſolved to aſſiſt his Aunt, and Couſin *Valentinian*, as far as poſſible. On her he confirmed the Dignity of *Auguſta*, and on him that of *Nobiliffimus* (or rather, conſidered what had been done by his Uncle *Honorius*) and ſent them away to *Theſſalonica*, in order to proſecuting the War againſt *Fohn*; which he committed to the care and conduct of *Aradburius*, and *Alper*, his Son; with whom *Olympiodorus* joyneth *Candidianus*. After they were come to *Theſſalonica*, he ſent thither *Helio*, the *Magiſter Officiorum*; who put upon *Valentinian* the Robe of *Caſar*, and thereby inveſted him with that Dignity when he was not now above five years of Age. *Aradburius*, to diſcharge his Truſt, brought them to *Salone*; and there adviſing about the beſt Courſe that was to be taken, he himſelf reſolved, with a great part of the Forces, to go by Sea to *Revenna*, and fall upon *Fohn* altogether unprepared; appointing *Alper*, his Son, to be a Convoy to *Placidia* and *Valentinian*; by Land, thither. And all things, at firſt, ſeemed to proſper and encourage them. But *Aradburius* was, by contrary Winds, driven upon the Coaſts of *Italy*, and forced to land in that place; where he was preſently taken by the Soldiers of *Fohn*, and carried to his Prefence. He being a Man, as *Procopius* tells you, of a mild diſpoſition, inſomuch, that he put no body to death during his Ulfurpation; or, as others ſay, out of deſire to come to an Amicable Compoſure, kept him in free Cuſtody, but treated him in an honourable manner; as deſigning, by his means, to procure Peace. His Son *Alper* had better fortune; and, with his Charge, *Placidia* and *Valentinian* arrived at *Aquila*; which, having ſurprized, they fortified: and, being ignorant of what had paſſed, expected to receive advantage from the Attempts of *Aradburius*.

Totodofix provides for the maintenance of the Bath of *Zeniddas*.

3. *Theodosius*, though he had his hands full this year, in providing for the Recovery of the Weft, yet employed his *Quæſor* in ſome things which he conceived would contribute to the welfare and advantage of his own Diſtrict. For the maintenance of that ancient Bath in *Conſtantinople*, called the Bath of *Zenoxippus*, which ſerved, not only the Citizens, but Soldiers; he ordained, that, ſuch Shops as were built in the *Porticus*, or Galleries about it, ſhould pay their Rent toward the "maintaining of the ſaid Baths with Lights, and keeping up the Fabric." Which Rent had, it ſeems, formerly been otherwiſe employed by the Curators of publick Works, or the Curators of the Commonwealth. As we find that about Churches, Books and other things relating to the Divine Worſhip, have been, and are ſtill wont to be ſold; fo, doubtleſs, in theſe *Porticus*'s, ſuch Materials as tended to promote waſhing or cleaſing of the Body. This Edict was directed to *Severinus*, *Præfeſt* of the City, on the ninth of *February*; and fix days after, as if the Conſpiracy of *Johſn* had made the Emperor very credulous and ſuſpicious, he ſent another to *Maximinus*, his *Comes Sacramum Largitionum*, whereby He forbade the uſe of Purple Cloaths made of Silk; whether all of that Colour, or the Ground, or the Embroidery only, as appertaining to him and his Family alone. And he commands, that whoever have luck in their Houſes, bring them in to the Treafury, upon pain usually undergone by Traitors. The Prohibition is large, *All Perſons of what Sex, Dignity, Art, Profeſſion or Lineage ſoever, being inhibited*. Indeed, *Julius Cæſar*

A. D.

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*A. D.*

4 2 4.

*Victore, Com*

DocLib.7.6.2

*Andal. lib.1*

52. de opm.  
ubl. Cod. Tb:  
19. Cod. Ja  
od. tit. Dat. 9  
d. Fan.

3. de Vestib.  
doloveris, Co  
h. & L. q. Co  
fust. ad. tit.  
Dat. 17. Cal. F  
dolovera van  
Librida.





Sect. 4. those of the same House. In the next place he declared the forts and numbers of his Professors, which in all should amount to one above thirty. As in this his Auditory, three *Roman Orators*, and ten *Grammarians*; in the *Greek Tongue* five *Sophists*, (so he calls them, but the same with *Orators*) and also ten *Grammarians*. And because, as he said, he would have Youth also to understand the more profound Learning, he joys with them one who should explain the Depths of Philosophy, and two more to lay open the meaning of the Laws. And he further commands the *Prefect* of the City, to whom this Constitution is directed, that these Professors have their several places allotted to them wherein to read, that neither Readers nor Hearers disturb one another.

Makes Prefect of the first Rank.

8. These places were the *Eschæra*, or Juttings out of the *Porticus*'s of the Capitol on the North Side thereof, which of themselves were convenient and large enough, and resembled our Chapter-Houses in the Cloisters of Cathedral Churches. On the East and West Sides there was no coming in out of the Streets, but certain Shops adjoining to the *Porticus*, formerly used for Trafficke or Merchandise; and these, for the further convenience of the Professors, and those that belonged to them, he orders to be bought in at the publick charge. But whereas personal conveniences are most wont to affect us, he took the course to oblige thereby the present Professors, and by continuing their privileges upon such as should come after, to engage them to the same Industry and attendance. Besides the former conveniences, he thought fit to confer on some, who now professed in this University, the *Comitiva* or degree of *Comes* of the first Rank. Namely, on two *Greek Grammarians*, *Helladius* and *Syrrianus*, of whom *Helladius* was a Man very eloquent, born at *Alexandria*, who wrote in commendation of the present Emperor *Theodosius*, and was the Master of *Socrates the Historian*. Besides these, there was *Theophilus*, a *Latine Grammarian*; *Martinus* and *Maximus*, *Sophists*, or *Greek Orators*; and *Leontius*, a Lawyer. These he declared, by virtue of his Codicils to be *Comites* of the first Rank, and to take place with such as had been *Vicars*, who about this time were also put into the order of these *Comites*, and possibly out of respect to these Professors. But not only on them, but such as for the time to come shall be approved by the Senate for their good life, and for their eloquence and skill in Teaching, when they have industriously executed their several Charges of Professors for the space of twenty years, he confers also the same Dignity of *Comes* of the first Rank. Something, but like to this, had been formerly indulged to Professors, as appears by *Quintilian*, who speaks of his resting after twenty years; just as a respect was had to the Veteran Soldiers, who had completed that number. And in *France* at this day there is something remaining of it.

Caesars banished, and his advisers.

9. For the following Year, the two Emperors were pleased to take upon them the Conular Ornaments; *Theodosius* the Twelfth Time, and *Valentinian* the Second, it being now the *CCCCXXVI* Year of our Lord. *Theodosius* spent the beginning and end of it at *Constantinople*, and some of the Summer (at least) at *Nicomedia*. *Valentinian* continued at *Rome* till the Month of *March*; and his Mother considering how *Caesars* had assisted *John* in obtaining the Sovereign Command, sent him into Banishment; but as for *Ætius*, he not only pardoned him, but conferred on him the Dignity of *Comes*, because he had caused the *Huns* to avoid *Italy*, by the strength of whom it was in his power to have made great disturbances. They being removed, much disorder and oppression removed with them; but as all Usurpations afford matter for Accusations, and either punishment, or Acts of Grace and Oblivion; so happened it at this time, and such disquiennes thereupon through the clamour and importunity of Informers and others, who begged forfeited Estates, that the Government was obliged to take some care for quieting and purging these fermenting humours. This was by an Oration directed to the Senate in the young Emperor's name, and of *Theodosius*, being laid out the third of *January* to have been read and published in that Assembly, by *Theodosius the Primicerius* of the *Notaries*. By this all Informers are prohibited, and put to silence, who were wont by their Accusations to bring innocent persons in to trouble. And for as much as in all such Hurly-burries, persons of mean fortune and condition desire to carve out for themselves such shares as the Changes of Affairs may present as possible to their endeavours; during this disorder, Slaves had forsaken their Masters, and set up for themselves under protection of an Usurpation, which is wont to give indemnity to all complying persons.

An Edict published in the Senate at Rome for compelling the troubles of Italy.

10. To give to all persons their Dues, all Slaves are ordered to be restored to their

A. D. 425.

Let it be ordered that the said Professors should be allowed the same places as the said Professors.

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Sect. 4. their Lords, against whom they had rebelled. And the *Senatorial* order which also had been much impaired by innovations in their Privileges and their *Forum*, to be restored to its former Dignity and Lustre; especially the Consuls, who it seems, had been lessened and disrespected by *John* the Usurper, as well as the Churches, which were also restored to their ancient Dignity and freedom. And whereas upon his being created Emperor, the Senate had voted a quantity of the Gold to be presented him, called *Aurum Oblativum*; *Valentinian* by this Constitution remits it in part to them, and part of it he gives to the City of *Rome*, where he now resided; and which, as otherwise appears, had been in a manner desolate, during the Usurpation. But amongst all the inconveniences which it suffered, none were more insupportable than the insolence of the Farmers of the *Res privata*, or *Domain* of the Prince, whom *John*, as the matter makes probable, encouraged to all excess, that they might willingly turn Tenants to himself. They were grown to that height of impudence, as to assume to themselves a Girdle, or sort of Dignity of *Militia*; so as none dared to look them in the face, or open their Mouths against them. When any suit or controversy arose concerning the Lands of the *Domain*, they turned to go to trial according to the usual course of Law, and file of the Courts. They were so bold as to intermeddle in the Suits and Controversies of other Men, and by affording their Patronage to disturb the ordinary course of proceedings. In the execution of Sentences they would assist. And none more forward than they to inform against their Neighbours. The Government thought it self so much concerned in Honour; and to be respected on by this miscarriage of these Dependents, as to declare, that sorts of Men subject to the Laws, by which the Princes themselves were bound or obliged; and that none of these Farmers of the *Domain* carry themselves higher than other Subjects, but live in common right and privilege with them; that none of them pretend to any Dignity or Power; but all live, and be sued according to what was wont to be practised by all persons in like cases; neither offer any Patronage or Protection to the disturbance of any, in possession, meddle with the Executions of any Sentences; thrust themselves into any private or publick Affairs, nor disturb any Families by turning troublesome Informers.

The Governors endeavour to regulate the Law.

A. D. 426.

Let it be ordered that the said Professors should be allowed the same places as the said Professors.

11. The Government being returned into the true Channel; as if, during the late Usurpation, the Laws had also been out of order, those who late at the Helm were persuaded to make some alteration and reformation of them also in certain particulars. This was attempted by another Oration directed to the Senate; in the former part of which a survey is made of all the Law, and a Repurgation of Imperial Constitutions, so as to declare what Rescripts of Princes should be followed for the decision of Causes, and be received and admitted for Law. As to Constitutions, it is cautioned in the first place, that such Rescripts as were sent out to answer to the Relations, or Suggestions of Judges, of Bodies Politick, Messengers, Cities, Provinces or Courts, should not be taken for general Laws, but only by those whom they concerned, and to whom they were directed; in behalf of whom, when given out, none should dare to retract them, or casually to interpret them, under pain of Infamy; or obtain any Rescript to revoke such privileges, or to admit such revocation, or make any report back to the Prince, under colour of Ambiguity, upon pain of a Mulct of thirty pounds of Gold to be incurred. Now these Rescripts shall be taken only to concern the Parties or Bodies to whom directed; but in case they be sent as an Oration to the Senate to be confirmed, or there recorded; or if they be called by the name of Edicts, whether they be published at the Prince's own spontaneous motion, or upon some Petition or Relation made; or if they be commanded to be exposed to publick view, or made use of, and to be extended to like Causes; or if they be termed general, then shall they be taken and received as general Laws, and for such, observed by all persons, as well one sort as another for the time to come. To which may be added, if they were inferred into the Body of Law, which was done some time after by Imperial Authority. To be sure, we have it relieved, that Rescripts procured contrary to Law shall be refused by all Judges, except perchance there may be something in them which without indamaging any other person, brings advantage to the Petitioner, or is in the nature of a pardon to him. Nay, though a Rescript be obtained according to Law, yet if it be procured by a false suggestion, it shall be of no force, but the Liar be severely punished by the Judge: which Ordinations were part of this Constitution whereof we speak.

A. D. 426.

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Sect. 4.

Placidia upon  
false suggestion  
of *Asinius*  
quarrels with  
Boniface.

he purposed to revolt, and setting up for himself, to make *Africk* the Seat of his own Empire. There was no way therefore but to abdicate his authority there, and to recall him home; but this would not satisfy the design of *Asinius*. He persuades her to recall him, but then to drive all into extremity, and raise an utter feud betwixt them, he writes to *Boniface*, and as his Friend, adveth him not to come, for there were designs against him, and he would endanger his Head, if he came within the reach of the present Governours. *Boniface* believed him as his faithful Friend, and following his advice, refused to quit his place of command and security; whereupon *Placidia* concluding all to be true which had been insinuated by *Asinius*, resolved to make War upon him as an Enemy. But for *Asinius* she had other Employment; for him she sent against *Theodorich*, King of the *Goths*, who at that time besieged *Archeila* in *Gall*, having been encouraged by the diffentions of the *Romans* to an open Revolt. But however, he was constrained by the *Roman* Soldiers to quit the Siege, through the means of *Asinius*, who took into his society and friendship *Avitus*, a great Man amongst the *Averni*.

17. But against *Boniface* a War being resolved on (through the envy of *Felix*, a *Magister Militum* in *Gall*, as *Proper* writes) three Commanders were chosen, and sent against him, viz. *Mavortius*, *Galbio* and *Sinox*. *Boniface* contained himself in *Carthage*, where he resolved to sustain the shock; and there he was straitly besieged, till such discord arose betwixt the *Roman* Generals, that *Mavortius* and *Galbio* were killed by the practices of *Sinox*, who now left alone, was utterly unable to grapple with *Boniface*; for he procured him quickly to be dispatched; and this happened without the loss of one Man on *Boniface* his side, if we will believe the Letters which are said to have passed at this time betwixt him and *Augustine*, the Bishop of *Hippo*, with whom hitherto he held good correspondence, till the malice of his Enemies, and his indignation thereupon turned him into Acts which that good Father could not but disapprove. For, *Placidia* hearing of the ill success her former endeavours had had, yet resolved to renew the War, and appointed *Sigevulter*, one of the Dignity of *Comes* to be the Procurator. *Boniface* concluding with himself, that he should not alone be able to grapple with the power of the Emperor, resolved to draw in others to his party. One Article of his Charge had been, that being commanded into *Spain* upon some business by the Government, he had there married a Relation of the Kings of the *Vandals*, and had contracted a League and Affinity with that People. Whether this was true or false, being as truth believed, he resolved his Enemies should have some true cause for their assertion, and either went himself back again into that Country, or as *Procopius* writes, sent some of his most faithful Friends, who contracted an agreement with the two Sons of *Godegisile*, who died the year before. These were *Gontharis*, or *Guntharius*, and *Gizerich*, or *Genserich*, with whom was agreed, that they three should share *Africk* amongst them, and should joyn together upon occasion to defend each other. By virtue of this Agreement the two Brothers quitted that part of *Spain* which lay nearest *Africk*, and in which they were succeeded by the *Visigoths*, and with their *Vandals*, to whom *Paulus Diaconus* joyns the *Alans*, passed the Straits of *Gibraltar*, as now we term it, to the great mischief of that Country, followed by great Revolutions, which continued nigh an hundred years.

18. The Year CCCCXXXVIII had for Consuls *Felix* and *Taurus*. *Theodiscus* made his Abode at *Constantinople*, and *Valentinian* at *Ravenna*. The *Præfeti Prætorio* were for the East *Hierius* and *Florentinus*, who succeeded *Endoxius*; and *Polusianus* in the West. This Year was too memorable in regard of the miserable waisting of *Africk* by Fire and Sword. For the *Vandals* finding therein no resistance, but rather encouraged and protected by the Army of him who invited them into the Country, executed that vengeance upon the miserable Provincials, which their many and enormous crimes, attested by the Writers of this Age, had pulled down upon their Heads. At this Fire and Smoak all *Italy* stood at gaze; and some of *Boniface* his Friends in *Rome* admired exceedingly, knowing his former Loyalty, how he should be transported to an Act so far destructive to the Empire. And *Placidia*, her anger was so much cooled by his heat, that the ordered some to go to *Carthage*, and feel him about the matter, who coming to him, found him free and open enough, inasmuch that he gave them the Letters written by *Asinius*, from which they returned, and shewed *Placidia*, that he had erred not through his own fault, but the treachery of another person. She had the temper to conceal her indignation, and dissembled the matter with *Asinius*, who had

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Procopius  
Valentinian  
Paulus Diaconus, lib. 14.The War against  
Boniface  
goes on.He contracts  
an Alliance  
with the  
Vandals in Spain.The Vandals  
thereupon  
pass into  
Africa.Which they  
mercifully  
waive with  
Fire and  
Sword.

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They refuse to  
be stopped by  
Boniface, who  
called them  
in.Theodosius con-  
tracts the  
forms of Law.Provides for  
the Curia.

an Army now at his devotion, when matters stood in so ticklish a posture. But to *Boniface* his Friends she opened her grief, and exceedingly complaining of the fraud of *Asinius*, besought them, that if they could they would persuade him to pass all over, and hinder the *Barbarians* from further waisting the Country. He was inclinable enough so to do, and by a great sum of Money endeavourd to divert them from further spoiling the Country. But they having got a taste of the sweetness of it, would not now be taken off, and returned him scoffing language, which provoked him to blows; but in the Engagement he was worsted, and fled to *Hippo*, a strong Maritime City of *Numidia*. To the place, *Genserich*, the *Bastard* Son of *Godegisile* laid Siege, who alone reigned over the *Pandals*, after the death of his Legitimate Brother *Gunthar* or *Gunderich*, who some say was extinct one way, and some another. But whereas *Procopius* writes that *Placidia* durst not take notice of any thing to *Asinius*, because he had an Army at his Devotion: to this we may add, that with that Army this Year he got a Victory over the *Franks*, and recovered from them a Region of *Gall*, lying near the *Rhine*. So wrote *Cassiodorus* and *Proper*; and *Sidonius Apollinaris* upon occasion of *Majorianus* his being with *Asinius* at the light, speaks of a Wedding that then happened amongst the *Franks*, how they fought at a Bridge, and the Bride was taken prisoner. And he describes the Garb and Fashions of the *Franks*, as then they were, which in our History of the *Franks* is to be observed.

19. *Theodosius* at *Constantinople* was still at his ease, as to any hostile oppositions. But being told of several things that in the State might be amended; and of his own inclination being prone to contract the Forms and Solemnities of the Law, by a large Constitution directed to *Hierius*, he now this Year attempted it in matters relating to Suits, Marriages, Portions and Joyntures, as to which he took away the scrupulous Quirks and Observances, and ordained, that any Words and Rites, honestly and innocently spoken and made, should suffice to make them good and effectual. "Not that these Words and Rites were in themselves good or evil; but were rendered to be such by the several Temperaments and Constitutions of times, which are a sufficient Warrant, nay, an urgent motive for repealing of Statutes, as all Ages and all Nations have taken notice. *Valentinian* lately had made a Reformation, as to Laws; and this of *Theodosius* was as it were a *Præsumum* to that Discrimination of Constitutions, which shortly after followed. We have not of a long time given any account concerning the *Curiaes*, or such as were obliged to the services of the Court, the emoluments of which, now again this Year *Theodosius* endeavourd to promote. In case any Estate came from a *Curialis* by succession to him, as dying intestate; if it consisted in Moveables, the Goods should be sold by consent of the *Curia*, and the price laid out in purchase of Lands to be let to responsible persons. And if the *Curialis* had any Heir who was nota *Curialis*, either as to the whole, or part of the Inheritance, yet a fourth part thereof should be granted to the *Curia*. But if any Possessions of these *Curiales* had come by lucrative causes, as by Legacy or Gift to any Stranger, he must pay the sixth of the profit for every parcel of Land, which was as much more as formerly had been required. But we see how the diversity of times brought in a diversity of Imperial Sanctions; and yet this should not prejudice any Corporations, in which, either Custom, Agreement, or Necessity required any larger Proportion."

20. Three years before *Theodosius* had found reason to deny Immunity from Quarters to all persons of all Degrees and Dignities living in *Constantinople*, when he and his Court resided there, their own dwelling Houses only excepted. But he did not think then of his *Archistri* and his *Professors* he had founded in that City, to whom he had formerly confirmed the privileges granted them by former *Præfets*, and exemption from services and charges, as well *Senatorian* as *Municipal*, when they had arrived at the first or second degree of *Comes*, or at higher Honours, which privileges were extended to their Wives and Children. But being put in mind of it the last Year, by an Edict inscribed to *Helio*, the *Magister Officiorum*, he had declared them exempt from the Burthen of the said Quarter and Entertainment. Moreover, having this very Year declared all of *Senatorian* Rank to be subject to the payment of the *Gloialis Collatio*, except such persons as he mentioned in his Constitution (as the *Notaries*, *Silentiarii*, *Decuriones*, and those who from among the *Agentes in Rebus* had aimed at the Degree of *Ducenarii*) now five or six Months after, calling to mind, that the *Archistri* or Physicians of his Palace, had not been exempted by name, he declared his will and pleasure to *Præ-*

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428.In Proper. The  
the *Placidia* sus-  
tained this dispo-  
sition.L. 12 de Cerec-  
tal. L. 1. de mact  
quis dicitL. 12 de præliis  
decurionem,  
C. de J. d. lib.  
C. de J. d. lib.  
L. 12 de mact  
quis dicit  
L. 12 de præliis  
decurionem,  
C. de J. d. lib.  
C. de J. d. lib.  
L. 12 de mact  
quis dicitVide L. ult. de  
Senatorio C. d.  
L. 12 de mact  
quis dicit  
L. 12 de præliis  
decurionem,  
C. de J. d. lib.

## Sect. 4.

He gratifies his Physicians.

Genseric goes on in waiting Africa.

Courtiers taken by Placidia to obviate his Attempt.

Yet more complaints out of Africa.

Very favourable Answer.

A modest Edit.

entus the *Præfect* of the City, that if they had arrived to be *Comites* of the first Rank, or higher, they should be in an especial manner discharged, and held free from the *Globalis Collatio*, as formerly had been granted by Imperial Constitutions, any thing in the late Law, provided notwithstanding.

21. The following Year is inscribed, *After the Consulship of Felix and Taurus, as all so Florentius being Consul*; being of our Lord the CCCCXXIX. *Valentinian* had his Abode at *Ravenna*, and *Theodosius* at *Constantinople*. And all this Year *Genseric* perfisted in the wafting of *Africk*, committing all sorts of Hostilities and Outrages therein, while in the mean time he was carrying on the Siege of *Hippo*.

In these dangerous times to provide as well as the could for the security of the Empire, *Placidia* preferred *Felix* to the honour of *Patritian*; and *Astin*, notwithstanding what had lately passed, to the Dignity and Power of *Magister Militum*. And because Money is the Sinews of War, and the Provincials were backward in paying in their Tribute, an *Edit* was issued out to *Volusianus* the *Præfect*, whereby a years time was given them for the payment of it; and if that was not observed, then the payment thereof, which was destined to no other end than the security of themselves should be exacted by the Governors of the Pro-

vinces. "And as it was Justice at all times to repress the violence and rapacity of *Suffectors*, or Receivers of the Tributes, so most seasonable now, when there was more occasion than ordinary for Contributions. *Volusianus* therefore, to whom, as *Præfect*, the matter of Tribute belonged, was enjoined to see, that when it was offered it should be received, and that at the peril of Governors of Provinces, and their Officers, just Weights should be used when it was received in Mass; and that the *Suffectors* should deliver to the *Possessor* exact and full Acquittances: and report should be made of what came into the Treasury, not only to the two *Comites*, or High Treasurers, but also to the *Præfectus Prætorio* himself, who might, by his own Accounts easily see what was due to be paid. In case any of the *Palatine* Officers, or those belonging to the *Possessor*, though he be in arrears to repel, be meddling, leave is given to do it, they shall be punished by the Treasurers; and if they fail through the procurement of their Officers, then shall it be done by the *Præfectus Prætorio* himself. "This was greater Indulgence than had been lately shewn to the Provincials of *Africa Proconsularis*, who had sent one *Babulcus*, a *Comes*, to complain how they were harassed and oppressed by the *Compulsors* and *Options*. In answer to whom, *Celer* the *Proconsul* was ordered to refrain, these Men, and give the Provincials four Months to bring the Money in themselves, to the Capitol or Castle of *Carthage*, which if they did not in that term, then the aforefaid Officers were to be let loose upon them.

22. Although the Barbarous Enemy was now raging with all sorts of Hostilities in that Country of *Africk*, yet were there Questions and Contentions among themselves; and now it was doubted to whom Appeals should lie from the *Rationalis* in causes relating to the *Domain*, or *Res private* of the Prince. To save the Provincials labour and trouble, *Celer* was empowered as *Proconsul* to receive all such Appeals, except they related to Penfions, which were paid out of the Emphyteutical or Patrimonial Lands, or to Estates that were begged; for these were matters which so nearly concerned the Office of the *Comes Rei private*, that no others could properly have cognizance of them. The reason of this Grant of Appeals, is very civil and modest. For, faith he, saving the Reverence of our Majesty, we do not disdain to have equal Law or Justice with private persons. "Another thing complained of, was, that such Acquittances as had been given by former *Proconsuls*, were questioned by their Successors, to the great vexation and disquiet of the People; to redress which, *Celer* is commanded also to forbear all such Disputations for the time to come, and with him all that shall succeed in the place of *Proconsul*.

A fourth Grievance yet was urged by *Babulcus*, that one *Curialis* in the same Territory of the City was constrained to pay Tribute for another, which was grown so intolerable, that there were scarce any sufficient Men to be found. In answer to which, *Celer* is charged, that each person be only responsible for his own Ground. "So just and temperate was the Government of those who advised *Valentinian* and his Mother, and suitable to this civil Answer given to the Messengers of *Africk* was another Law directed to *Volusianus* the *Præfect*, after this manner: *It's a saying worthy the Majesty of a Prince to profess himself bound up by the Laws*. Somewhat doth his Authority depend upon that of the Law. And indeed it is a thing greater than Empire to submit the Prince his power unto Laws. And by the

A. D.  
428.A. D.  
429.  
Florentio & Dionysio Coss.

L. 36. de Annona &amp; Tributi. Cod. Th. Anst. a Cod. Just. D. 16. Cal. Mart.

L. 32. de Sponsu &amp; Injunctis. Cod. Th. &amp; Cod. Just. D. 16. Cal. Mart.

L. 36. de Annona &amp; Tributi. Cod. Th. Anst. a Cod. Just.

L. 1. de Appel. lationib. &amp; Confutatorib. Cod. Th. Anst. a Cod. Just.

L. 185. de Decretis. Cod. Th. &amp; L. 1. de Publ. Cod. Just.

L. 186. de Just. D. 16.

L. 4. de Legib. &amp; Cod. Just. D. 1. tit. 14.

Oracle

## Sect. 4.

Augustine the Bishop of Hippo dies during the Siege.

Oracle of this present *Edit* (so it concludes) that which we do not permit to be "lawful to our selves, we declare to others."

23. We are now arrived at the CCCCXXX Year of Christ, wherein *Theodosius Augustus* the Thirteenth, and *Valentinian* the third time were *Consuls*. The two Emperors made their Abodes formerly; the one at *Ravenna*, and the other at *Constantinople*. The Siege of *Hippo* still went on, and continued for fourteen Months; and toward the middle of it *Augustine* the Bishop died, when the whole Country of *Africk*, except *Carthage*, *Cirta* and *Hippo* were already over-run by the *Vandals*. The Government at this time thought fit to put a difference between the Province called *Byzacena*, and that of the *Proconsul*, so as the *Curiales* or *Præpositi* might be constituted, the *Præpositi* or *Overseers* of the Granaries, which in the *Proconsular* Province is denied, for reasons, no doubt, reflecting upon the *Curiales* or *Præpositi* of this Province, who were not to be intrusted with such a concern. "We hear no more of any Employment the *Quæstor* had at *Ravenna* this year; but his Brother at *Constantinople* was employed by the importunity of some Courtiers to explain and limit an *Edit* which the Emperor five years before had directed to *Valerius* the then *Comes Rei private*. Taking into his serious consideration the custom of begging Estates forfeited, and how at this time of danger there was need of enlarging his Revenue, and affixing his Treasury by all lawful means, he thought he should deal very favourably with such Beggars, if he granted their request, with this condition, that his Exchequer should goan equal share with them in all Estates to be begged and granted, except in those that belonged to Temples and Patrimonial Lands, which being already invested in himself, it was supposed he knew what he gave out of his own Purse; and therefore, if they were granted, it must be supposed that he knew what he did, and they passed wholly to the Grantee.

24. But in Lands or Estates so to be divided, he to whom they were granted must first deduct his Expenses and Charges in suit, and then the Division to be made of the *Residuum*. And all Judges were expressly commanded to use all interference in the Trial, and not be partial, as too often they were when the *Triumvir* was concerned, whether the *Comes Rei private* himself heard the matter, or the ordinary Judge of the Province in places at a great distance. Nay, the Advocate of the Treasury himself must be present, as commonly at such trials, yet he is commanded to be silent, lest the Judges be biased by his arguments and discourses. But if the matter was compounded before it came to the trial, yet to be sure the Treasury should carry away one half of what was gained by such Composition or Transaction. Nay, although the person that begged the Estate, obtained a private Rescript for his enjoying the whole, yet should such Rescript be void, and of none effect. Moreover the Laws formerly made concerning time given to the *Possessor* to maintain his Title, and after which he should not be molested, were confirmed. But now *Theodosius* thought fit to dispense with this Law of Division, when those that belonged to his Bed-Chamber were concerned; so as they having discovered and obtained such Estates, should not be bound to part with half to the Treasury. In all other things he confirms that Law and for this favour extended to his Bed-Chamber Men, he gives no other reason than that of his own Clemency. "And we may easily believe that to have been the chiefest motive. For he was so gracious to their *Præfectus*, as to take him into the second Rank or Degree of Illustrious persons, making him equal with the *Præfects* and the *Magistri Militum*. But these persons, as other near Attendants, the *Caesarense* and *Protectores* had greater opportunity than others to insinuate, and drive a great Trade by begging, as we have seen formerly out of *Ammianus*, yet at length it was quite spoiled, this being the last *Edit* of this nature extant in the Code of *Theodosius*, and not inserted into that of *Justinian*, because such begging was forbidden, and made unlawful by his Law.

25. Some of his Officers were so unreasonable, as, though they had Houses of their own in *Constantinople*, yet when the Court was there they would pretend a right to take up Quarters with their Neighbours. This he thought fit to forbid by orders sent both to the *Comes S. L.* and the *Magister Officiorum*, commanding that in case any such would take up other Mens Houses than their own, they should be made liable to quarter; forasmuch as only illustrious persons had their Houses excused from that service. "And the necessity of the times required, that he should make a little bold with such as had obtained Lands or Estates from him and his Predecessors, that out of these Lands Contribution should be according to the

M m m 2 Exigencies





## Sect. 4.

that City. *Constantine* the Great had also been kind to the Poor of that Church. But now *Theodosius* was so charitable, as to add to the former Allowance, toward the maintenance of the Common People, one hundred and ten *Modii* by the day; so as Man should be defrauded of what formerly he had enjoyed.

35. But the Companies of the City of *Alexandria* were bound by some ancient Law or Agreement, to cleanse those Channels which were made for deriving the Water of the Nile into the several Territories and Fields of that Country. This they found so heavy a burthen, that, nor well able to support it, they made their Application to *Isidore*, the *Præfekt*; and with such Success, that he obtained a Rescript to be directed to himself; Whereby they were freed from that Charge; and, in room of their free Contribution, out of the Tolls belonging to the City, which they called *Dinummium* (the same with a *Denarius*) four hundred *Solidi* should be allotted to that Work; which should be repayed out of the Customs laid upon Merchandize or Ships, a Revenue that belonged to the Prince himself. Here were Bodies or Companies, as *Bakers*, *Saarii*, *Catechoules*, *Pecunarii*, *Sufceptores*, *Mancipes* of the Baths, *Burners* of Lime, and others in this City as well as in *Rome* and *Constantinople*, who had several Privileges; as, not to be lyable to extraordinary Impositions; not to serve in War, except for the guarding of the Gates or Walls; but were obnoxious (for all this) to various Burthens, from one of which they now obtained a Relaxation.

Thus *Theodosius* consulted for the Emolument of the Subject in general throughout *Egypt*, and in respect to Tributes; and for the benefit of *Alexandria*, and its Bodies or Companies; nay, its Common People or Inhabitants. It's a wonder if we should find nothing concerning the *Curia* and the *Curiales*, the *Senate* by which that great City was governed; so great, that it stood, in those days, in competition with *Carthage*, which of the two should be named first after the two *Romes*.

36. Yet, because of the turbulent, light and inconstant humour of that People, *Augustus* formerly had denied them the privilege of having a Senate; forbade all, that any Citizen of *Alexandria* should be chosen into that of *Rome*; and indeed, for the same reason succeeding Princes were averse to give leave to any to become free Members of the former City. But at length *Severus* indulged them so far, as to grant them to have a Court, and the *Leges Curialium*, or *Boulentarium*, as they called them; whereas formerly they had lived as when under their own Kings, contented with one Judge, who was nominated by the Emperor. And *Caracalla*, his Son, though otherwise he was very severe unto them, permitted that, as other Subjects, they might be chosen into the *Roman Senate*. After this, the Court became of great fame and esteem according to the greatness and importance of the place; in so much, that *Theodosius* the Great wrote to them by the name of *Sensors* of the City of *Alexandria*; and now, his Grand-son thought fit to grace them with farther privileges. The chief of the Court, usually ten in number, were, as we have seen, called *Principales*, and had greater Immunities than the rest: to which this Emperor thought fit to add this year, that, They should not be forced to undertake a Journey, or to carry a Message to Court; nor to undergo any public Charge out of their City, which was intended rather for the advantage of the place than of them: it's Safety and Honour much depending on their Presence, Care and Industry. And, this was now so far pressing, that, although they were Advocates, and consequently, by their Learning and Skill in the Laws, able and fitter to undertake such Employments, yet he will have them excused.

37. But of these *Principales*, there was a Chief, or *Primus*, who held the first place in, and governed the Session; who deserving, in that respect, more than others, *Theodosius*, by this Constitution, confers on him the Dignity of *Comes* of the first Rank; which drew along with it the Senatorial Dignity. But yet, we must confess, with some odd and unusual Circumstances. As first, That he should enjoy this Dignity but for five years; whereas usually, such Honour was conferred for Life. Then, though he was hereby a *Sensor*, he shall not be subject to any Senatorian Function. And, he will have him a *Comes*; yet so, as still to remain and serve in the *Curia* of the City. But yet, still, amongst the *Principales*, besides the *Primus*, there were five they called *Primates* and *Summates*; who were under the *Primus*, but were superior to the other *Principales*. These he will have free from Corporal Injuries, Examinations or Punishments by Torture; which Immunity others of the *Curiales* formerly enjoyed, but it seems it had been broken in latter times; and now *Theodosius* thought fit to restore it to these persons. And for

A. D.  
436.Lait de Pro-  
andine Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Particularly to  
the alexandri-  
ans.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.

## Sect. 4.

for it he gives this reason; that with free Speech they may defend the Interest of their Country, which, before this, they durst not use for fear of Torture when they were to lay open to the ordinary Judges the Grievances under which they laboured; whether of immoderate Impositions, of Injuries received from their Officials, or such like; which, in this Country of *Egypt* were very frequent, and at this very time under *Theodosius*, the *Præfektus Augustalis*, whom *Isidore* taxeth for his insolent demeanour towards all Men. To secure these *Primates* against it, the Emperor, in case of Misdemeanour, ordains that they be only punished by the Purse, and that the Mult be imposed by the *Præfekt* in the Court, before all the *Curiales*. For the encouragement of such as had continued long and worthily in Service of the Court (possibly thirty years) he ordains further, That they be excused from Corporal or Personal Services, though not from Patrimonial or Pecuniary, for these were often divided. And because oftentimes it happened, that some Persons not at all obliged to undertake these Services, would voluntarily become *Curiales*, either out of love to their Country, or by the motion and persuasion of the *Principales*; particularly, the *Hypomnematographus*; who, being the second in place, was wont to nominate persons to publick Functions, distribute Offices, and keep the Records of such Transactions; and whereas the *Præfektus Augustalis* would often interpose, and, some way or other corrupted, hinder such Agreements, *Theodosius* declares, that, His consent, which he affirms, was most commonly mercenary, shall not be expected; but he shall admit and confirm such Agreements upon Application made to him by both the Parties, under pain of incurring a fine of twenty five pounds of Gold.

To the Offi-  
cers of his Re-  
venue.

38. Thus kind was the Emperor to the Courts and the Members thereof, as often his Predecessors to their Subjects; but of Indulgence to their own Officers belonging to the Revenue we seldom hear. But, about this time several of the Sufceptors, or Gatherers of the Provisions in kind, being in Arrear of what should have been paid into the *Arca* of the *Præfektus Prætorio*; *Isidore* holding that place, summoned them in, and set them certain Summs of Money in lieu of them. This Taxation, or Exchange seemed to *Theodosius* very moderate; yet, they thinking it otherwise, petitioned him for a milder Composition; and he was so inclinable to their mercy, that he forgave them the one half of what was due before the tenth Idiction or the CCCCXXVII of our Lord; commanding the rest to be duly paid, the *Præfektus Prætorio* of the East till toward the month of September; and then succeeded by *Darius*; to whom we find a Constitution directed on the eighth and twentieth of August. This was of Indulgence also, in reference to the Exchange of Money for Tributes in Specie; and herein to confirm the Privileges granted by former Princes, and to put an Honor upon *Cyrus*, an eminent Prelate, who was Bishop, at this time, of *Afrosias*, the Metropolis of *Caria*; and had lately done good Service to the Church, in the Council of *Ephefus*, against the Heretic *Nestorius*. He declares his Merits to be such, that he shall not be prohibited to make use of a special Indulgence, contrary to this general Sanction. But so otherwise, he declares, that, at the end of five years, an Estimation being made of the Profits or Revenue; and the Fertility and Sterility being compared, the Possessor may pay a fifth part of the Value; and that, according to the ordinary Market Rate of that Year. This Law is dated at *Apamea*, of which there were two; one in *Bithynia*, and the other in *Phrygia*: the latter of which, called also *Cibotos*, was nearest to *Cyzicus*; whither *Marcellinus* reports *Theodosius* to have repaired by Water this Year, and to have been very gracious to the place. It made up, with other Injunctions, a larger Constitution, by virtue of another part whereof *Darius* was enjoined, as formerly his Predecessor *Isidore* had been, to take special care, that before the beginning of the Idiction, timely notice should be given of the quantity of the Tax; that the Officials might not cheat the Provincials, by pretending it greater than indeed it was.

39. The Year CCCCXXXVII had for *Consuls*, *Ætius* and *Sigefontus*. *Theodosius* continued this Year at *Constantinople*, whither he had returned out of *Asia* in October. Where *Valentinian* had his Abode is something uncertain, though this is certain enough, that, at the latter end of the preceding, or in this he made a Journey Eastward, to marry *Eudoxia*, the Daughter of *Theodosius*. *Proper*, *Marcellinus*, the *Chronicon* of *Calliodorus*, and others, set it at this Year. But *Socrates*, who living at this time, and concluding his History shortly after, had better reason to know the truth; writes, that they were married in the Consulship of *Isidore* and *Sensor*. That *Theodosius* having granted his Request, it was considered what

A. D.  
436.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.

Alexandria.

Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.Lait de Alexan-  
dria, Cod. Th.  
c. 12, Cod.  
Theod. tit.  
Jus. Inst. tit.



## Sect. 4.

Valentinian  
marries the  
Daughter of  
Theodosius.

place would be most convenient to meet at, betwixt *Rome* and *Constantinople*, for confutimating the Marriage; and *Theodosianica* was most approved, as in the middle way. But *Valentinian*, as became a brisk Lover, desired him not to trouble himself, for he would come to *Constantinople*, and fetch his Bride himself. And accordingly, when he had placed his Affairs of the West in safe hands, he went thither: and having confutimated the Marriage, returned speedily again into his own Dominions. Some write, that he purchased his Wife by quitting part of *Illyricum*; whereas one would have expected, that he should rather have received the other part in Portion with her. But, while *Valentinian* was thus engaged in matters of Love and Marriage, *Littorius*, his Officer, being disaffected from the Tumults of the *Goths*, made War upon the *Aremorians*, who, not long before, had revolted. He did not think the *Goths* would so soon return to their turbulent humour, as it happened: for, no sooner was the Rod removed out of their sight, no sooner was he withdrawn, but they renewed their Hostilities, and fell into the Country of the *Arverni*, which they wasted with all sorts of Calamities. But, upon *Littorius* his returning victoriously from *Aremorica*, and bringing a power of *Huns* to assist him, they were easily obliged to cease their Depredations, and retire to the place from whence they came.

The left Con-  
stitution in  
Theodosius his  
Code is be-  
half of the Si-  
lentiaris.

40. What Portion soever *Theodosius* gave with his Daughter, or what Contract was made about the Marriage, in a Constitution of this Year, and the last of all that his Code contains, he gives him the Title of his Lord and Son: but this he might do out of other respects, as well as the newly contracted Relation. Herein he confirms the Privileges he had granted to the *Decuriones* and *Silentiaris* five Years before, in contemplation of their merits. And besides these, he adds others of his own Grace and Favour. As, that they shall enjoy the Honour of *Senators*, but be excused from the burthens belonging to persons of that rank; as that the *Prætorship*, and the *Glebalis Collatio*. That they shall be excused from the *Metatus*, whether their Houses be in *Constantinople*, or in other Cities; so as not to be bound to find Lodging for any, of what Dignity soever; whereas the *Illustres* only were wont to be indulged in this kind. But he declares, that these Privileges shall be understood, not to extend to any *Supernumeraries*, but to thirty *Silentiaris*, and three *Decuriones*; to which number he had reduced them. And finally shall enjoy them as have continued and demeaned themselves unblameable in the Service for the space of thirteen Years; or, as he expresseth it, continued their Watches or Attendance so long. "Whereby he expresseth the particular Duty and Service of these Men, who, as we have formerly said, watched and guarded about the Emperor's Bed-chamber, at the second Velum, or Hanging, when he was in Conclitoy, or had any business with his Council, or treated upon any Messages brought out of the Provinces. There they both commanded silence, and were in a condition to procure it, being armed, for the ease and security of the Prince. This Edict is not dated with the names of the *Consuls* of the present Year, but thus: After the *Consulship* of *Isidore* and *Senator*, although in the middle of *March*, which was much, that their names should not be known at that time.

41. For the next, or the CCCCXXXVIII of our Saviour, *Theodosius* himself, the sixteenth time, took the Consular Ornaments; and with him was joyoned *Fauftus* in the West. Nothing so memorable happened this Year, as the Confirmation of *Theodosius* his Code, which had been composed in the former. As in all States and Dominions Laws are made *pro re nata*, and according to the Exigency of Affairs, in process of time they ordinarily grow to a great number; and, as accidents and circumstances vary, so become often obsolete and out of use, though they continue to be Historical, and to shew the state of the times when they were ordained: So happened it at this time with the Laws of the *Romans*, especially, the Constitutions of Emperors; and there was need to make some discrimination between them that were indeed useful, and such as continued to be directive to the present Conduct of Affairs. Formerly some had taken the pains to gather into Bodies the Edicts of some particular Princes; but there were none that came forth entire, or considerable for their quantity and use, till those called *Codex Gregorianus* and *Hermogenianus* saw the light, in the days of *Diocletian*, and about ten Years before *Constantine* the Great. They were of great moment, as appears by the use made of them in after times, though they be now lost, as to us. Yet it appears not whether they were published by publick Authority or not: and its also uncertain who were their Authors, who this *Gregorius* and *Hermogenes* should be; though some are so bold as to make conjectures. However, they both fetch'd the Original of their Collections from the Emperor *Adrian*; who is, by several Writers, named,

A. D.

437.

De Edi-  
cto i. C. Theod.  
de i. C. Theod.  
de i. C. Theod.

Decurionum &  
Silentiariorum  
multis privi-  
legiis consti-  
tuta in  
omnibus  
que Dominus et  
Filius noster  
Valentinianus  
Imper. Augustus  
regis sui con-  
stituit, confir-  
mas. &c.  
Lect. Cod. Theod.  
Decuriones  
& Silentiaris  
Dat. 18. Cal.  
Apr.

A. D.

438.

Theodosius A.  
16. & Fau-  
stus, Cons.

Vide Goshy. in  
Prolegomenis  
ad Cod. Theod.

## Sect. 4.

Theodosius his  
Code confirm-  
ed.

as a Prince who altered and reformed the Law, and perhaps chiefly upon this Account; that, in his time was framed the *Edictum Perpetuum*, which was to be a standing Rule for Law, and an Epitome thereof; of which these Writings were generally Comments, which now are found in the Pandects, and the method of which was followed by *Hermogenianus*, in his Code; who lived, as several conjectures would persuade us, during the Government of *Constantine* his Sons. And, probable it is, that both of them being Pagans, and finding many old Customs to be altered by Christian Princes; out of zeal to the ancient Constitutions, that they might not be forgotten, they made those Collections.

42. That Christians might not be behind with them herein, the *Theodosian Code* was at this time composed; in which were collected such Constitutions as had been made by the Emperors of our Profession, from the time of *Constantine*, who, by *Fulian* and his fellow Pagans, was raised on for an Innovator, though he took away the doubtful tricks and ambages of the old Law, and brought it down to a Conformity with the goodness and mercifulness of Christianity; and especially, with that morality and opposition to Vice, which true Christians, according to the indispensable Rules of their Religion, own to be necessary for the attainment of that happiness which it propoeth. But *Theodosius* signifies in the Novel which this year, on the fifteenth of *February*, he published, for the confirmation of this his Code: that, The great loss which Professors of Law were at, how to regulate their Studies, was the great motive to this his undertaking. For, the Books of Law were so voluminous, that they knew not where to begin or fix: and that proved so great a discouragement, that he complains how few in his time were eminent in this Study. To prevent all confusion, he commands, that, after the first of *January*, this Code be made use of in all Decisions, as the Standard of Law. And, unwilling to defraud of their due praise those who assisted at the Collection, being Men of approved Fidelity, famous Learning, and to be compared with the Ancients, He makes mention of *Antiochus*, who had been both *Præfict* and *Consul*; *Marcellinus*, who had executed the Office of *Questor* of the Palace; *Martyrius*, at present a *Comes*, and his *Questor*; all three Illustrious in Dignity. To them he adds five more, and all of the Title of *Speiabilis*; as *Sperantius*, *Apollodorus* and *Theodorus*; all *Comites* of his sacred Conclitoy; *Eugenius*, his *Comes*, and *Adalger* *Memoria*; and, in the last place, *Procopius*, a *Comes* also, who had been *Magister Libellorum*. At the close of the Law he calls *Florentius*, the *Præfict* of the *Prætorio* of the East, to whom he directs it, his most dear and most loving Parent; and orders his Illustrious and Magnificent Authority, to which it was familiar thing to please Princes, by his published Edicts, to cause this Decree of Imperial Majesty to come to the knowledge of all People and Provinces. "It bears date, as we said, on the fifteenth of *February*; but the fifteenth Consulship of *Theodosius* is corruptly set for the sixteenth; as many Constitutions do evidence in his Code, which were made after that of his fifteenth Consulship, and as the Reader hath seen.

43. The main thing he propounded to the Compilers was, To extricate the Laws from tediousness and obscurity wherein they were involved, by cutting off the Prefaces and other Circumstantialities; whereby, though the memories of Law, years might be eased, yet History could not but suffer in its Evidence and Perspicuity. That this Code may the more obtain, he forbids any Constitution, for the time to come, made by his Son *Valentinian*, to be of force, except it be first intimated to himself; and others going out in his own name, to be Authentical, if not contained in his Code; except relating to the Militia, and matters of Expenses belonging to the *Palatine* Offices. "But of the profitableness of this Book let the Reader, by the use he sees now made of it, judge; and how far it came to be received for Law in after times, both by the *Romans*, and Barbarous Nations we shall in due time discover. Now that we are speaking of Books, we must take notice of another very useful one, compiled about this time, at least, completed; and that is, the *Notitia* of the Empire, of which we have made so much use in this Volume; which both gives so much light, and receives so much illustration from the Code. It's inscribed thus, *The Notitia of all the Dignities, as well Civil as Military, in the Parts of the East, and of the West*: and in it, indeed, is contained the Forces, Garrisons, Magistrates, Ornaments, and Strength; in a word, all the Greatness and Importance of the Empire, in admirable order and method. By reading of this Book, the sense of many Laws is to be made out, and many obscure places in Histories cleared. *Augustus*, as we formerly hinted, first

A. D.

438:

Theod. Novel. i.  
Dat. 15. Cal.  
Mart. Theod. A.  
A. Conf. 15. Et  
qui Juris noster  
clausus.

as Vide Goshy.  
in Not.

Sect. 4. began a Work of this nature; for with his own hand he wrote a Book wherein were contained the publick Forces, what Associates as well as natural Subjects were in Arms, how many Fleets were maintained, what Kingdoms were in subjection, what were the Tributes and Customs of the Provinces, and what the Expenses were; and this he delivered to the Magistrates and Senators, whom he sent for to his Houſe, when he had thoughts of resigning the Government. This Book was kept, and the couſe observed by ſucceeding Princes, who added and altered as there was occaſion. It was called alſo the *Lateralium* from the ſhape and figure of it.

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44. But the Provinces being divided, the Magiſtrates increaſed, and new Palatine Dignities being found out, and by reaſon of new Enemies riſing up from all Quarters, more numerous Forces being raiſed, all theſe this *Lateralium* could not contain. And therefore a new Book was made, called the *Leſſer Lateralium*, and therein were ſet down and deſcribed the Preſectſhips, Tribuneſhips and Governments of Caſſles and Forts made for defence of the Limits; and this was kept in the *ſcrinium Memoriae*, under the Diſpoſition of the *Quaeſtor*. Out of theſe Books was the *Notitia of the Empire* compiled, and, as we ſaid, about this time; for as to the very time indeed there is no certainty. *Gothofred* thinks it was made about ten or eleven years before the publiſhing of the Code. *Panciroſus* concludes it done toward the latter end of this *Theodoſius* his Reign, for ſeveral reaſons. Under the *Dux of Egypt* it makes mention of the *Ala Theodoſiana*, which was inſtituted in his time, and takes notice of the *Saxon* Limit through *Britain*; which name was firſt heard of about or after the Year *CCCC*. He conceives no mention to be made in it of the *Vicar of Illyrium*, becauſe that Country was about this very time, whereof we write, miſerably waſted by the *Huns*. And that it could not be written after the Year *CCCLV*, is evident, becauſe it mentions the *Fabric* or Forge of *Concordia*, and the Treasures of *Aquila*, and the Money there coined; whereas both *Caffiodorus* and *Marcellinus* write of theſe Cities being deſtroyed by *Attila* in that Year. In concluſion, *Ciclate*, where-ever he had it, calls it, *The Secretary of Theodoſius the Younger*. In the ſame Volume, and that ſet before the *Notitia*, were found Deſcriptions of the Old, and of New *Rome*, each divided into fourteen Regions, which, though not parts of it but kept in the Offices of the *Preſects* of the Cities were probably ſet before it for the uſe of the Subject. And after it, were placed the Figures of certain Engines relating to War, and to coining, which it ſeems were taken out of the Fabricks belonging to the *Maſſifier Officium*, and the *Serina* of the *Comes Largitionum*, and added as an Ornament to the Work; all which Learned *Panciroſus* by his Commentaries hath illuſtrated.

45. But with ſome Copies of this *Notitia*, another Work hath alſo been found joyued, and which deſerves to be mentioned as a thing of great uſe and advantage; a Treatiſe which declares the diſtance and Names of Cities, Towns, Garrifons, Manſions, Stations and Mutations of the *Cuſtus*, where the Poſts, or thoſe that made uſe of the *Cuſtus publicus*, were wont to bait and reſreſh themſelves, and change their Horſes or Waggons. This Book is commonly known by the name of *Antonine's* Itinerary, though why ſo called, no Man can well divine. That it was not compoſed by any Emperor that bore that name, as now we find it, ſufficiently appears in that it makes mention of *Conſtantinople*, *Conſtantia*, and *Maximianopolis*, Cities; and the Legions called *Frovia* and *Herculie*, which names are of later date by ſome hundreds of years, the Cities being founded by the perſons whoſe names they bore, and the Legions inſtituted by *Dioſetian* and *Maximian*. Beſides, ſome Copies have it not *Antoninus*, but *Antonius*; *Flodoardus* and others aſcribe it to *Bibbicus*, an ancient Geographer; and an old Manuſcript, as Biſhop *Uſher* citeth it out of *Dempſter*, the Author of the Eccleſiaſtical Hiſtory of *Scotland*, ſubjoins it to *Scotus*. But as we ſaid concerning the *Notitia* of the Dignities of the Empire, that for the ſervice of the State, the Prince and chief Miniſters, ſuch Col- lections had been made as occaſion ſerved in all Ages, and changed according to accidents, and as the Laws and Customs altered; ſo doubt we not, but a *Notitia*, as we may call it, of the ſeveral Cities, Stations, Manſions and Mutations was alſo made, kept and preſerved to reſort to upon occaſion, for the underſtanding of Countries, and direction of Armies in their Marches, the *Cuſtus publicus*, Convey- ance, of the *Annona*, and like uſes: and this was alſo interpolated and changed as new pleaſures, or new Names were taken by places. The greateſt Captains, as *Alexander* and *Julius Ceſar*, were very careful in their Conqueſts to make Charts

When writ-  
ten.

Antonine's Iti-  
nary.

Dr Primſtill,  
Redſi. viii. p.  
88. Juſtifier, ut ſo-  
lus, Valſius in  
Gleſian. Ma-  
ſſinap. accu-  
ſomographia  
que totius Ju-  
ſia Graecia  
transſcripta con-  
ſta, non deſcribit,  
ſed Eſtict ſid  
ſulla Hancuſi  
Oratoris Coſta-  
ſia, ut ſupra deſcri-  
bit.  
See Barthe's  
Commentary  
upon the Iti-  
nary con-  
cerning vi-  
tue.

Sect. 4. and Deſcriptions of Countries for the benefit of themſelves and poſterity. The *Perſians* had their Countries alſo ſurveyed. Poſſibly what *Julius Ceſar*, *Augustus* or others began, might receive ſome conſiderable alteration in the days of *Antoninus Caracalla*, or *Antoninus Pius*, and thence the Collection might retain his name; though afterward it received great alterations according to the changes which time produced. And being kept alſo in the *ſcrinium Memoriae*, or ſome other Office, as the *Lateralium* were; it was thought fit for the agreeableneſs of the Subject, to be joyued and publiſhed with the *Notitia* of the Empire.

A. D.  
438.

46. The Year of our Lord *CCCCXXXIX* had *Theodoſius Auguſtus*, the Emperor, Conſul now the ſeventeenth time; and with him in the Weſt was joyued *Feſtus*. *Littorius* as well as *Æſius* formerly fought proſperouſly in *Gall* againſt the *Goths*, and partly by the confidence of his good fortune, partly out of emulation to him, and truſting to the Aruſpices and Anſwers of Devils, he was (for he was a Pagan) ſo far tranſported, as hoping to drive them out of the Country, he laid Siege to *Toluſe*, their City, and at firſt put their King *Theodorich* into ſuch a fright, that he ſent ſome Biſhops to offer peace. He thought himſelf ſure of ſucceſs, and rejecting the motion, gave battle to the *Goths*, who bought the Victory very dear, but the Victory they got, and with this addition, that the confident Pagan Captain was taken Priſoner, and carried captive into that City which he doubted not but to enter in Triumph, where at length he miſerably perished, pierced by his very Enemies, as *Salvian* writes. *Valentinian* receiving the News of his Deſeat, and the loſs of ſuch an Army, commanded *Æſius* to haſte again into *Gall*, to repair the Breach that had been made upon the *Roman* Intereſt; and his very coming had ſuch operation upon the imaginations of the *Goths*, that they preſently deſired a peace, which was mediated by *Aotius* then *Preſectus Praetorio* of that Diſtrict.

A. D.  
439.  
Theodoſio A.  
17. & Feſto  
Caſſ.

Littorius de-  
feated.

Geſenrich ſlews  
upon Carthage.

A Deſcription  
of that City.

47. But while *Æſius* was buſie in quenching the flame kindled in *Gall*, a greater broke out in *Africa*, where *Geſenrich* raging with all imaginable liberty throughout the Country, at length could not forbear ſetting upon *Carthage* it ſelf, after the wealth whereof he ſorely thirſted. And the State of that City was truly ſo great and ſplendid at this very time, as might very well tempt and allure a Man of his principles to be dealing with it. *Salvian*, the more to aggravate the crimes, the Luxury and Debauchery as of all the *Africans*, ſo of the preſent *Carthaginians*, preſents his Reader with a proſpect of its Glory. He ſets it forth as always emulous to *Rome*, in old time as to Arms and Valour; afterwards as to Splendor and Dignity; as the greateſt Adverſary of the *Roman* City, and another *Rome* in the *African* World; what Diſcipline ſoever is wont either to procure or adminiſter the Intereſt and Greatneſs of Places was at this time in it to be found. There were all Inſtruments of publick Offices or Employments. There were Schools of the Liberal Arts; there were the Shops, as he terms them, or Work-Houſes, of Philoſophers; in a word, all Accommodations for Languages and Manners.

48. And not only ſo, but it was furniſhed with Soldiers, and ſuch as com- manded Military Men. There was to be ſeen the honourable Port of a *Procon- ſul*, a daily Judge and Governour, who, as to Name and Title, was indeed a *Proconſul*, but a *Conſul* as to power and greatneſs. There were all ſorts of Offi- cers, and differing amongſt themſelves as well in Degree as Titles, and in every Street and Lane thoſe who in a manner governed all the members of the City and People. This he grudges not to declare, but is aſhamed when he comes to ſpeak how this City ſwarmed with all ſorts of Vices; how it abounded with all kinds of Iniquities; how full it was of Tumults, but more of Turpitudes; full of Wealth, but more of Vice; how the Inhabitants ſurmounted one another in the naughtineſs of their Wickedneſſes; how ſome contended with others in Rapacity, others with their Neighbours in Impurity; ſome languiſhed by drinking too much Wine, and others were burſten almoſt with Gluttony; ſome were crowned with Garlands; others were moiſt with Ointments; but all ruined with various ſorts of Luxury; almoſt all deſtroyed by one death of Errors; not all ſorred with Drink, but all drunk in ſeveral ſorts of Sins. You would imagine, ſaith he, the People not themſelves, not to be in their Wits, but ſuch as ſtumble, fall, and break their Necks, reeling by Troops after their drunken Bouts, no otherwiſe than as the *Bacche*.

49. He raxeth them with injuſtice and oppreſſion of Widows and Orphans, and eſpecially inſults upon their Impurity and Uncleaneſſes, with which all Corn- ers of the City ſtank. By this we might judge of a Revolution near at hand, Vice the uſual Harbinger being ſo briſk and daring. And it came not far behind,

Proſper. Hieſterſi.

Carthage



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signing one and the same day & time, the Testament should be valid, & not therefor<sup>e</sup> to be of no force, because the Witnesses were ignorant what was therein contained."

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54. In case the Testator was unlearned, or could not subscribe, he might make use of an eighth person, the same Solemnities being observed. But in all Testaments which were dictated, either in the absence or presence of Witnesses, he declared it superfluous to require, that at one & the same time the Testator should both have his Witnesses ready, dictate his mind, and complete the Testament. But though it was dictated or written at another time, & afterward produced, it should suffice, if at one and the same, no Act intervening, all the Witnesses together, and not at divers times, subscribed and signed it. For he decreed, that the Subscriptions and Seals of the Witnesses should be taken to complete the Testament, whereas that which wanted them was to be accounted and taken as imperfect. And his pleasure was, that the Will of the dead should not hold or bind by virtue of an imperfect Testament, except in behalf of the children of the deceased. As for a Nuncupation or Testament made without writing, he would not have it of force, except seven Witnesses at one and the same time, as aforesaid, were gathered together, and heard the Will of the Testator, or him that made the Testament without Writing, and that he was resolved to make his Will before them at the same time without Writing. In case any one made a perfect Testament, and afterwards happened to make another, the former should not be nullified by the latter, except it was complete in Law, and consummate: except in the former those were named Heirs who could not have succeeded the party if he had died intestate, and in the latter such were named, who, if he had died intestate, must have succeeded him. For in this case, though the latter writing may seem imperfect, yet the former Testament being invalidated, his second Will shall take place, not as a Testament, but as a Will of an Intestate; in which Will the Depositions of five Witnesses shall suffice: which not observed, the former Testament shall be of force, though Strangers in it were named Heirs. And in the last place, whereas things that related to the Law of Nations, might be transacted in any Language, but to the Civil only in that of Rome, he thought fit to declare, That liberty had been given to make Testaments in the Greek Tongue, and it should be lawful to leave Legacies, liberty to Slaves, and to assign Tutors in the same words, and to be valid and lawful as if named in Latin. Such Indulgence did the case of Testaments require at this time, whereas in other Ages the tempers of Men and other accidents exacted more strict Solemnities in the making of them, as ours in our own Country now seem to do, it having of late seemed fit to the wisdom of our Nation to reduce our liberty of making Wills, from almost that of Soldiers, to the severity and strictness, well nigh, of the highest Roman Laws, to prevent the grievous sin of perjury.

55. All the care he took for making of wholesome Laws, and supplying the defects of former Constitutions would be to little purpose, if a special regard were not had to such as should put them in execution; and of this he thought also at the latter end of this Year. Notwithstanding all care that had been taken, yet some persons crept indirectly into the Government of Provinces, of which Theodosius having notice, probably from Florentinus himself; at the latter end of November he sent him an express order by way of Relcript or Edict, That no persons should be admitted to such Governments, as thought to attain them by ambition or reward; but were promoted thereto by the testimony of an approved life, or of him the Prefect. And with this circumstance, that such as should be advanced to those Honours by the choice of his Seat, or the Emperor himself, should swear publicly, that, Neither they, nor any for them had given any thing for obtaining these Governments, nor would give for the time to come, thereby breaking both the Law and their Oath: no, not by any Title of Sale or Donation, or any other colour, or pretence of any contract whatsoever: and that for, or by reason of such Employments gratuitously received, their Salaries or Allowances only excepted, they shall receive nothing for any favour done in the time of their Governments, either while in power, or when returned to a private life. And although, he adds, he supposes no Man so devoid of the fear of God, as by contemning an Oath, to prefer any worldly advantages before his own salvation; yet that necessity of danger may be subjoined to the fear of Salvation: if any should dare to violate his Oath, he grants free liberty of accusing both Giver and Receiver, as of a public crime, whom he condemns in four-fold of the Value to be levied all manner of ways. That the Empero: was put upon this and several other courses for reformation of manners,

Lalt. ad Legem Juliam Repulcrum, Cod. Just. lib. 9. tit. 27. Dat. 6. Cal. Decemb. Florentius P.P.

The Oath required of every Governor entering into Office.

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manners, and the ease of the People, with the honour of the Prince and his Government, by Florentinus, we cannot but believe, because of the most ample Testimony given to his publick Spirit and Generosity, by an Act of State, dated but a vanced to be Prefectus Prætorio.

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56. Let Histories, faith he, deserve (or obtain) belief from present Examples, and let Antiquity be freed from all Ambiguity, when it tells us of Great Men, who preferred the Commonwealth before their own Estates. We may behold the Illustrious Florentinus, who, supported by the Administration of the Prætorian Prefecture, by the emulous virtue of an excellent mind, strives, not only with the Merit of our Ancestors, but with his own great Deserts, toward the Commonwealth; the Reputation whereof he hath vindicated, not only by his Counsel and Prudence, but also by his Devotion and Munificence, from the blot and infamy of shameful Turpitude. For, observing how by the damnable craftiness of Pandors, the inadvertency of the Antients was circumvented, under pretence of a certain Lustral Prefation, it being lawful to exercise a Commerce of Modesty, he suggested to us, that it was one part of the Injury of the present times, that Pandors were permitted to be in the City, and that the Treasury was furnished by their filthy Traffic. And, though he knew that we abominated it, and had no respect to the Tribute; yet, lest any damage should come to our Exchequer, he offered us so much of his own Estate, as, out of the Revenues of which, as much profit would arise as was wont from that wretched sort of Trade. Wherefore, willingly embracing his forecast and munificence, by this lasting Law we ordain, that if any hereafter shall attempt to prostitute any Slaves, whether his own, or belonging to others; or Bodies of Persons of Free Condition, but hired at a certain rate: these miserable Slaves being set at liberty, and the Persons of Free Condition being loosed from their impious Service: such an one, being first grievously lashed, shall be banished out of the Limits of this City, in which he presumed to exercise his wicked Craft; for an example to, and the amendment of all other Men. Therefore, Cyrus, the most dear Parent of Emperors, see that your Illustrious Authority take order, that these things which we have decreed, for preservation of publick Honesty, be observed with all due veneration. Otherwise, your Office, if it neglect our Precepts, shall incur a Fine of twenty pounds of Gold. Thus we see Theodosius accepted of Florentinus his Offer; and in way of recompence, gave a publick Testimony to his merit; which was as little as he could do.

The Generosity and Piety of Florentinus.

57. For his care extended to several other things which he urged the Emperor to reform. Courtiers and Soldiers, as also, Merchants, by reason of their Employment, sought to evade publick Charges and Taxes, by pretending they were exempt from the Jurisdiction of the ordinary Governors of Provinces: but, by a new Law, he procured him to declare against, and null all such pretended Prescriptions against ordinary Courts of Justice. The Accidents of former times had provoked the Legislators to such Severity against Mothers which had Children in their care make Inventories of their Estates, that if they did not provide them of Tutors, nor Testaments, and of power to dispose of any thing they had; and, besides that, be branded with Infamy. It's the violence and contagion of the Disease which makes the Medicine and Application violent; and when it abates of its Symptoms, the force of these must also abate. Women were now become so careful of their Fatherless Children, that Theodosius thought fit to remove so heavy a penalty: yet, as a Father of his Country, he thought himself bound to provide for the security of Orphans. And that, as he faith, in cutting off superfluous and inhumane practices, he might not seem to promise Impunity to Delinquents; in the first place, he will have such as are to succed a Child, in case of death, to know, that if, within a year after his Father's death, they do not provide him a Tutor according to Law, they shall be excluded from inheriting his Estate if he die before fourteen years of Age. And the same thing he will have observed, as to such Mothers, which having undertaken the Guardianship of their Children, contrary to their Oath, fly to second Marriages, before they have caused other Tutors to be chosen, and given account of the management of their Estates, and put them in possession of them. The second Husbands of such Mothers he will have obnoxious to the Children; and their very Estates obliged, as by way of Pledge, to answer for the Accounts which their Wives ought to make to the Guardians.

Novel. 18. Th. Dat. 18. Dec.

Novel. 14. Th. Th. sine dispensatione, Law. In quibus causis nullitas respicitur. Cod. Just. lib. 3. tit. 25.

Novel. 76. 4. Th. sine dispensatione, L. 6. In quibus causis pignus, vel hypotheca tacite contrahitur. Cod. Just. lib. 8. tit. 15.

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Guardians of Children by their former Husbands. " In the last place, we shall only take notice, that toward the end of this year, *Theodosius* again was forced to require the Laws to be put in Execution, that were made to prevent begging of Estates; as that, it should not be within a Year after the death of the Party, or the Exchequer coming to have Interest in the Estate. " This he did, as he saith, at the suggestion of the illustrious *Marcellinus*, the *Comes Largitionum*, and then executing the place of the *Comes Rei Private*; which is remarkable, that both these great Offices should be managed by one person. But the Edict is directed to *Florentius*, *Præfectus Prætorio*, as the former; who, by his Edicts, exposed it to view at *Constantinople*, on the nineteenth of October.

58. We are now arrived at the CCCCXI. Year of our Lord; wherein the Emperor *Valentinian* was Consul the fifth time, with *Anatolius*, Consul for the East, according to his name. *Genferich*, King of the *Vandals*, after his taking of *Carthage*, still prosecuted the War in *Africa*; and now came, as was said, to a Partition of the Provinces he had subdued. To himself he reserved the Provinces *Bizacena*, *Asuritana*, *Gætulia*, and part of *Numidia*: and to the Army, distributed by way of Inheritance, *Zengitana* and *Africa Proconularis*. They coming, and taking possession, every where, the poor Provincials were turned out of their Estates and Dwellings, and the Bishops and Clerks thrust out of their Churches: which put the Bishops and Nobility upon going to the Tyrant, and petitioning him to have some compassion on them in this their great distress. But he sent them this cruel Answer; that he had resolved to leave none of their Name or Kind, and wondered that they durst desire such masters of him. That Kingdom he had thus obtained, that they durst desire such masters of him: and for that purpose, knowing that he now felt himself, by all means, would be thoughtful and active, and the Citizens of *Carthage* were Men of Spirit, would be brought to it by the *Romans*, he seized on all they had; and drove them to such Streights, that he forced the chiefest of them to pass the Sea, into *Italy*.

59. This did well please him, that he should not leave such Enemies at his back: for, to carry on his great design, he resolved to fall upon, and, if possible, to bring under his obedience the Coasts of the Islands, and others which, on the *Mediterranean* Sea, lay opposite to *Africa*. And getting a Fleet together, he passed over into *Sicily*; which he grievously harried and distressed. What resistance was particularly made against him we know not; but we are told by an Epistle written by *Theodorich*, King of *Italy*, in commendation of *Cassiodorus*, his Chancellor, to the Senate of *Rome*; that *Cassiodorus*, his Grandfather, a person dignified with the Title of *Illustrius*, which could not be denied to his Family, freed *Sicily* and the *Bruttii*, by his Arms, from the Incursions of the *Vandals*; so as he deserved the Primacy of those Provinces which he defended from so cruel and sudden an Enemy. He concludes, that the Commonwealth ought it to his Valour, that *Genferich*, rich did not then invade those neighbouring Provinces; that *Genferich*, whom *Rome* afterward found so bloody and cruel.

60. *Theodosius* this Year further busied his Quæstor in composing several Acts of State for the publick good. One for shortning Tryals, and cutting off Delays in Suits arising from Appeals; of which he assigns the fatal terms and periods, whether they lay from the ordinary Judges of Provinces, from Delegates or Superior Magistrates. He was well pleased with the fidelity of *Enodius*, his *Comes Rei Private*; who acquainted him, toward the latter end of *May*, with a custom he observed that some Men had got to work themselves into the Possession of his Patrimonial Land, under pretence of some Contract, so as not to pay the Canon, or ordinary Imposition lying upon them. By a Rescript he takes notice of his Zeal toward the publick Service; which, if it were diligently prosecuted, would preserve his Revenue from diminution. And, for prevention of such mischief, he declares, All such Contracts shall, for the future, be null where no Canon is to be paid; that all the Fruits and Profits be restored, and no Prescription avail any such person. And, if the *Palatine* Officers suffer such a Contract to be made, or a Petition to be preferred, they shall incur a Fine of fifty pounds of Gold: so as no *Præmatric*, or *Avocation* from the Prince himself shall be of force, either to make such a bargain valid, or to remit the Fine to the *Palatines*. According to the custom, he commands that his illustrious Authority, by his Edicts, cause this Law to be made publick.

61. *Cyrus*, the *Præfectus Prætorio*, put in also his Complaint; that, of those that wore the Girdle, the *Scholares Cohortales* belonging to the *Curia*, and such like, severally

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Novel. Theod.

Saggeffionem

in illustriis

Consulis Sacer-

um Legitimo

Mentibus

ut, vltimo agno-

scitis uti. Illu-

stria Consulis re-

rum privatis

comprobamus

Or.

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Valentiniano

A. S. C. Ana-

tolio, Coss.

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severally declined his Jurisdiction, though guilty of oppressing the people, and other Enormities. To which, by another Rescript, *Theodosius* answered; and ordained, that Such Criminals should neither avoid his Jurisdiction, nor the ordinary one of Governors of such Provinces where the faults were committed. " This being published, they that were concerned, to avoid the Inconvenience, pretended the Law not to reach them: so that, at the end of the Year, he was forced to explain it by another: wherein he declares *Scholares*, *Comites* and *Military Tribunes*: to be meant, according to the custom; but not the other armed Soldiers, or *Tribunes* commanding the *Numeri*. " This *Cyrus*, as the Emperor complements him, being now designed Consul for the following Year, still, by his Suggestions, put him in mind of something which tended to the publick Utility, or was to be redressed; and, in particular, he moved him in behalf of such who sometimes got some ground by Rivers forsaking their wonted Channels, and leaving some Lands adjoining to theirs, which ordinarily accrued to them by way of Alluvion, as the Law term was. Now, this advantage was very uncertain; for, as it happened in one day, in another often, it was taken away, and the Possessors had nothing left to compensate the charge and trouble about it. However, the Prince his Officers were double diligent to lay claim to such adventitious Grounds, to seize and sell them, or, at least, to lay Impositions upon them, as belonging to the Treasury. *Cyrus* did this good Office by his Information, as to procure a Rescript, prohibiting any such practice. And this farther, that if any person had drained any Fens, or, by their Cost and Industry, recovered any Pastures or Meadows, they should for ever possess them, without any burthen imposed, without being seized or begged, under pain of a Fine of fifty pounds of Gold to be incurred by the Breakers of this Law; among whom, the Officers belonging to the *Præfect* were to be reckoned, if they promoted any such matter, or preferred any petition in order to it.

62. He was made sensible also, the latter end of this Year, that it was a great grievance to the people to have recourse to himself in matter of Appeals: and so he owned it; being, as he confesseth, often diverted by other Affairs, wherewith he was taken up for the benefit of the World; or, as we may conclude, by other occasions, made unfit for such intricate and troublesome business. He ordained therefore, that, in Appeals from Judges of the Degree of *Speñabilis*, it should not be expected that matters should come before him: But if any appealed from *Procon-* *suls*, the *Præfectus Augustalis*, *Comes* of the East, or *Fiscari*; the *Præfectus Prætorio*, and the *Quæstors* of the Palace should have the hearing; as also, from a *Dux*, if he was also a *Præfect*, the matter should be of the *Præfect*'s Cognizance. More-over, if the state of a *Civialis* or *Cohortalis* were in question, the controversy should be decided by the *Præfect* and *Magister Militum* in case of an Appeal, though the *Magister* had delegated it to the *Præfect* of the Province. " These things he ordained in Edicts directed to *Cyrus*; who was therein most concerned as *Judge*; and about this Year gratified the City of *Constantinople*, by conveying Water from the *Aquæduct* of the Palace of *Hædrian*, to the Baths of *Achilles*, and those called *Nymphææ*, which had warm Water. To keep which in order, he procured Rescripts, forbidding any to make use of the Water of that *Aquæduct*, and, in case any persons in his District would obtain leave from the Prince, of deriving Water from any publick *Aquæduct*: in the Provinces, they must intimate it to the *Præfect*, and to none other, under pain of an heavy forfeiture.

63. Though *Cyrus* had not had these Laws to have backed his Authority, yet might his Rules and Methods have been better observed in things of this nature, than in another matter, the regulation of which, by another Edict, was also committed unto him. We have formerly seen how Princes have been wearied and obliged to make several Laws about Precedence; and no wonder, considering the natural ambition of Men themselves, the peevishness of Women, that delight in nothing more than place; and that great variety of Humours and Accidents, which must have been in persons so numerous as were those of Quality, inhabiting so many several Provinces. Former Laws and Rules could not, it seems, answer all Circumstances of a thing so substantial as this was. And *Theodosius* was put upon it, to declare more fully, and in better Rank and Order, what the distinction of persons should be. He let therefore *Cyrus* to understand, that illustrious Persons, in the first place, he distinguished into five sorts. Some had actually discharged Offices whereby they were rendered illustrious. Others he termed *Vacantes*, who being present at Court, had deserved the Girdle of some illustrious Dignity, though they did not actually then discharge it. The third sort of them was who being

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absent

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Novel. Theod.

S. 2. de annis

militantibus

per pædemptio-

nem. Dicit, 11. c. d.

Oli. de

S. 2. de d. c. c.

Dicit.

Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

Oli. de

S. 2. de d. c. c.

Dicit.

Novel. Theod.

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et pædemptio-

nem. Dicit, 11. c. d.

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Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

Oli. de

S. 2. de d. c. c.

Dicit.

Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

Oli. de

S. 2. de d. c. c.

Dicit.

Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

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Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

Oli. de

S. 2. de d. c. c.

Dicit.

Novel. Theod.

de Alaricis

et pædemptio-

nem. Dicit, 11. c. d.

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absent, had the same Girdle of Illustrious *Vacantes* sent unto them. The fourth " of such who, without Administration or Girdle, had obtained the Honorary Dignity by virtue of *Codicils* or Letters; and were present in *Comitatu*. And the last, such as being absent, had the said *Codicils* of Honorary, though Illustrious, Dignity sent to them. " All these, he declares, shall take place as now mentioned.

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64. But such as actually execute such Offices, though the *Comites Rei Private*, shall take place of all *Vacantes*, and Honorary, or Titular Persons. But, as for the *Vacantes*, he doth not think fit they enjoy just the same privilege; but that they only take place of all such merely Titular and Honorary as are of the same Rank and Quality, not all Illustrious whatsoever; for example, that a *Prefectorian* precede a *Quæstorian*, but not a *Quæstorian* a *Prætorian*; and in like manner, a *Quæstorian* a *Quæstorian*; not that a vacant *Comes Theaurorum*, or *Comes Rei Private*, precede an Honorary *Quæstorian*, or *Magister Officiorum*. As for those in actual Employment, he farther will have it known, that for such he will have taken, and esteemed those *Vacantes*; to whom he commits some Employment, Charge or Dignity; though it be not of the Rank of Illustrious, but perhaps, of *Clarissimus* or *Perfectissimus*. In case, to such persons he had in Sacred Consistory committed, or should commit, any ordinary Dignity; as if, to a vacant *Magister Militum*, the Charge of War, he should be reckoned amongst the *Aministrantes*. For, he demands what reason there is why *Germanus*, whom he calls *Pir Magnificus*, should not go for a vacant *Magister Militum*; to whom he committed the care of the War against his Enemies, meaning the *Vandalis*, against whom he was sent with a great Navy. Or, why the most excellent *Properatius* should not be said to have discharged the *Præfectus*; by all whose illustrious dispositions (in the room of the *Præfectus Prætorio*) the Soldier, in his Expedition, hath abounded with plenty of Provisions; which we have said to have been the main Charge and Task of that great Officer.

65. But, when Summer was come, the Alarm was given to *Italy*, of the Preparations of *Genferich*, and his great Design, wherefore it would fall. We cannot say that this caused *Valentinian* to remove from *Ravenna* to *Rome*, that he might be in better capacity to give Relief to the Maritime Parts, which that Rover would, most probably, annoy; but we find him so much concerned, as to publish an Edict to the people, as the Text now hath it, which is said to be dated at *Rome*, if *Accepted* or *Published* be not to be read, on the twenty fourth of *June*; and that concerning the great Affair. He begins with a sort of excuse for requiring a Duty from all in general, because the good of all in general is concerned: neither doth he believe it will seem troublesome to the Provincials; that, seeing it belongs to the security of themselves, they should be pressed to the resisting of Pirates and Robbers. Then he declares that *Genferich*, the Enemy of his Empire, is reported to have towed out of the Haven of *Carthage* no small a Fleet; the sudden Exursion and Deprivation of which is to be feared by all the Coasts. Now, although he, out of his solicitude for the publick Safety, had placed Garrisons in divers parts; and the Army of his Father, the most invincible Prince *Theodosius*, drew near; and that most excellent person, *Atius*, his *Patritius*, would shortly arrive with a great power of Men, as he believes; moreover, the most Illustrious *Sigisvundus* the *Magister Militum*, watched, with a Body, both of his own Soldiers, and Confederates, for the defence of both Cities and Coasts; yet, because in the Summer Season it is altogether uncertain where the Enemy may put in, by this Proclamation he admonisheth all his Subjects, with a confidence in the Roman Power, and with such Courage as becomes them, to undertake the Defence of their own Estates and Relations, and that with their own Men if need be (publick Discipline always preserved, as also, the modesty that belongs to Freedom) and to make use of such Arms as they can; and, by a faithful Agreement, and a joyned Shield, as it were, protect his Provinces and their own Fortunes, without despair utterly to lose their labour; for, every one shall enjoy freely whatsoever he shall victoriously take from the Enemy.

66. How much this Motive, over and above their own preservation, might work with the Provincials, we know not; but, how ever they might gain by Spoil and Plunder, they could not but be out of purse, upon occasion of the War. For besides, the Country-men their standing upon their Guard in case of Landings; if Land he should, an Army was necessary in the *Mediterranean* Parts; and, for the maintenance of this Army, an answerable Income must be raised. For this, Order

Novel. Valentinianum inter Theodosianum, 20.  
Dat. 8. Cal. Febr.

Valentinian, by a Proclamation, excites his Subjects of Italy against Genferich.

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was taken by an Edict, which *Maximus, Præfectus Prætorio* now the second " time, was commanded to publish, so as it might come to the knowledge of all " People and Provinces, whereby all sorts of Lands were made liable to pay the " fourth parts of the Tributes, due from the ninth Indiction, so as no privilege " should avail, or protect any, who by any Title were possessed of the Emperor's " own Lands, any belonging to the Church, or any Society of Men. And he pres- " feth it as a very idle and arrogant conceit, that any should esteem those sordid " Services and Employments, such as were repairing High-ways, the making up " of Arms, repairing of Walls, Provision of the *Annona*, and others, whereby " the splendor of the Empire is provided for; without which nothing of moment " can be produced; by the assistance of which the Dignity of the Empire is main- " tained, and indeed no necessary matter can be effected. The absurdity of this " conceit he much endeavours to discover, as also the folly of, and Detriment arising from, that study and endeavour of rich and dignified persons, to ease themselves by throwing Burthens from their own Shoulders upon the Backs of mean " and insolvent persons: how penny-wife, and pound-foolish such persons are. " This Edict was published either this or the following Year; but whether of the two we cannot certainly say, from the obscure date of it, as now the Text is corrupted; but that it was in relation to these imminent dangers which threatened *Italy* and the adjacent Provinces, there's little doubt.

67. There was another thing which not only hindred the payment of Taxes, but also procured a great stop to Entercourse and Traffick, without which Taxes could very badly be paid. Whether it was because since the days of *Valentinian*, as the Reader may remember, the *Aurei* were raised to greater value more than at first was intended; and since that, others made of as small Weight, but to be of the same price and estimate, that a grudge remained amongst the People, or for other reasons; but now at *Rome* it was become ordinary to refuse the *Aurei* in payments, except undervalued, and at an under Rate. A thing of so dangerous consequence to the Government, that it drew out a Proclamation to the People of that City, whom calling by their old name of *Quirites*, he acquaints that frequent complaint was made to him, how to the disgrace of his Parents, the *Solidi* that were stamped with their Images, were refused by every Trafficker, which he could not suffer to go long unpunished. Therefore all are to take notice, that it shall be capital to any Man whatsoever, who shall refuse any *Aureus Solidus* of just Weight, either of the Lord his Father *Theodosius*, any of his sacred Relations, or of former Princes, or take it at a lower Rate. He expressly commands, that a *Solidus* be not put off from seven thousand *Nummi*, which had been received for seven thousand two hundred; the reasonableness of price being the best course to secure the advantage of the Seller and promote Trade. And he signifies that in reference to a matter of great concern in this Affair, he had caused just and fit Standards of Weights to be made, the observance of which, as also of the Rule given about the *Aurei*, the *Præfecti* of the City and Office shall procure under a penalty of ten pounds of Gold. " We have seen how *Valentinian* took order, that the Burthens of the Soil, or Tributes belonging to the Soil should be paid every where, notwithstanding Indemnity was pretended by the Quality of the owners. But besides the quality of persons in general as Ecclesiastick, or as belonging to some Body or Society, sometimes personal privileges were wont to be procured; with which however Princes might play at some times, yet generally the thing was very bad, and in such days so full of danger, and requiring such expence, it was altogether mischievous. As such, he now owns it to *Maximus* the *Præfecti* by another Rescript founded upon his suggestion, and commands that an equality of Taxes be observed, and all such privileges granted to be of no force. "

68. It's not to be doubted, but in all these Charges and Impositions the City of *Rome*, and reason there was, had her share; yet being deservedly look'd upon as the Head of the Empire, and procurer of all that Grandeur of which Prince and People were possessed, she was wont still to be courted, and could not brook any disrespect from the greatest of them. But of late had risen a great dissatisfaction and tumult about the great concernment of Trade. For as in all great Cities where there is confluence, and especially of Nobility, Strangers are wont to flock, and obtrude their own Wares, sometimes their Native Commodities, and otherwhiles artificial Works made (they pretend, and fantastick People imagine) with greater invention and curiosity; so at this time certain *Greek* Tradefmen flocked thither, such as they called *Pantapola*, Sellers of all things, or, more truly, Jacks

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Novel. 21. Valentinianum inter Theodosianum, Dat. 10. Cal. Mart. Reversus, Accepit prid. Idus Mart. ubi Jacopuli Confessionis Valentinianus 5. 10. Augustus Col.

Novel. 25. Valentinianum inter Theodosianum, Dat. 15. Cal. Febr. Perennis vocatus bestis impiorum quos impiorum accipere.

Novel. 30. Valentinianum inter Theodosianum, Dat. 8. Cal. Febr.

Another for affecting the value of the *Aurei*.





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The Captains  
sent against  
them fall into  
diffension.

72. For this purpose he sent against them *Arnegiflus* and *Fohn*, both flourishing with the Title of *Magister Militum*, and furnished with a choice Body of Men. And to answer his expectations, they both engaged in very sharp Disputes; *Arnegiflus* with *Attila* in *Mesfia* near *Macedonia*, and *Fohn* with *Bleda* in *Thrace*, and fallen into diffension, which so far prevailed above all care of publick concerns, that *Fohn* was killed by the fraud of his Emulator. This put *Theodosius* upon great Straits, and though he was not willing to hear of *Genferich* his possessing any thing in *Africk*, yet that he might not be overpowered by two Enemies at once, but provide against that mischief which was nearest at hand, and most threatened him, he was persuaded to listen to the Overtures made by the *Pandals*. And had not this disaster of the *Huns* so pressed him, he might possibly have made much better Terms than he did. For *Genferich* his Affairs were in no good condition in his new Kingdom, his Subjects bearing very ill his insolence, which he had contracted from his very good fortune, inasmuch that they conspired against him. The Plot he discovered, and raged against many; which yet deterred not others from the like Attempt, who also miscarrying, and his Jealousies and Rage being vented against more than were really concerned; so great Slaughter he made of his Men, that he could not have been more weakened, had he been defeated in Battel. But he humbly begging peace, *Theodosius* for the reasons we have said, thought fit to grant it, and recalled his Army out of *Sicily*, which he sent under conduct of *Arabinus* and *Asper* against the *Huns*. They concerned themselves so little for their coming, that they still went on, and having wasted *Thrace*, passed into *Macedonia* and *Greece*. These they harraffed and spoiled with more than Barbarous Imminity, as if they designed by their outrageous Acts to obliterate all Memory of the ferocity of the *Goths* and *Pandals*. They even did what they listed. For so great were their numbers, and strong the resolution of their Captains, that the Attacks made by the *Roman* Officers did but whet and sharpen them to further Attempts. In the West *Genferich* having made his peace with *Theodosius*, used the same Applications to his Son-in-law *Valentinian*, who being more concerned as to the Country contended for, he had reason to be more careful as to the conditions. But it was agreed betwixt them, that *Genferich* should keep in his hands the Provinces *Byzacena*, *Abaritana*, *Getulia*, and part of *Numidia*, and his Army retain *Zengitana*, or that they called the *Proconsular*. The rest should remain to *Valentinian*, to whom he should pay a Tribute, and give up his Son *Honorich* as Hostage, for preserving that faith, which he had already twice broken.

Which also  
doth *Valen-*  
*tian*.

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## SECT.

## S E C T. V.

## The Fifth Step to the Ruine of the Empire in the West.

From the Irruption of Attila and the Huns into the Empire, to the Invasion of the Western Provinces by that furious Nation.

Containing the space of Nine Years.

## Sect. 5.

Theodosius hires  
the Huns to  
retire.

1. *M*aximus the second time, and *Paternus* were Consuls for the Year of our Lord CCCCXLIII. *Valentinian*, as we have seen, was to receive Tribute, (if he could get it) from *Genferich*; however, had the honour of an acknowledgment; whereas it fared far otherwise with the Reputation of *Theodosius*. For, he finding of how little efficacy his Steel was against the *Huns* for curing that distemper which had invaded his Eastern Provinces, resolved when such a forcible application would not do, to try what Gold might work by way of revulsion. To *Attila* he sent about a peace, and retreat, which he offered to purchase with six thousand pounds of Gold paid down at present, and promised a thousand pounds more yearly, if he would keep himself and his Men within his own Bounds. They could not refuse the offer, but receiving their Gold, packed up, and got them gone beyond *Ister*, not only enriched with this sum, but with infinite other Treasure and Plunder, and an hundred and twenty thousand Captives; poor *Ilyricum*, though frequently subject to such calamities, yet never having suffered to such a degree. And this added something to their grief, that all things being burnt up and wasted, so dreadful a Snow fell this Year, as lay on the ground for six Months, and thereby perished not only great quantities of Cattel, but multitudes of Men, Women and Children, who wanted the accommodations of Habitation and Fuel, of which the savage *Huns* had deprived them. This was counted no less than a Prodigy; and so was also that Earthquake which happened in *Italy*, where many Buildings in *Rome* were thrown to the ground. The more prodigious they were, they suited the more with, and portended that great and prodigious Tempest, which ceasing for some little time, (the Cloud requiring a little Northward) poured it self shortly after both into the Western and Eastern Provinces, like an Hurricane, so as scarcely any thing, of what Bulk or Materials soever, could stand before it. At Land scarcely any thing; the Water afforded the best security.

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Maximus 2.

&amp; Paternus

Cons.

Theodosius re-  
stores the  
Limits.

2. However weak the *Præsenture* were to make any resistance of *Attila* and his Multitudes; yet the Enemy being removed, *Theodosius* would not have the Limits neglected, nor the Duty of the Officers that there lay encamped. But to reinforce it, he wrote to *Nomus* the *Magister Officiorum* his Commands, that the *Duces* of the said Limits, and especially of those to which were Neighbours such Nations as were most to be feared, should abide upon the Borders, themselves, to see, under the inspection of the *Magistri Militum*, that the Soldiers did not fraggle, but that they took care to have the Camp and other Necessaries repaired, and kept in good order. And to the *Principes*, the *Præpositi* of the Camp, and to them, he assigns the twelfth part of the *Annone* belonging to the Limitaneous Soldiers, to be distributed among them, according to the Vicitude of their Labours, at the discretion

P p p p



## Sect. 5.

Valentinian on  
the contrary;  
exacts his  
Dues.

one apiece; *Tribunes Vacant*, whether *Comites* of the second or third Rank, and all *Clarissimi* contribute a third part; so as every *Tiro* should be rated at thirty *Solidi*, the *Africans* excepted, who were lately driven, by an Hostile necessity, from their native Soil. Moreover, in consideration of their present Labours and Watches, twenty *Confessorians*, thirty *Comites*, and the *Notaries* to be excused. In August several illustrious persons were sent for, from *Rome*, to Court, to consult about the publick Affairs; to whom the Senate gave in prayer, to acquaint the Emperor with a great Irregularity it had observed; and to chage his Redress. It was grown to a great custom for Widows, after the death of their Husbands, to sue their Sons and Heirs for such Profits as had been spent in common in their life time, for maintenance of the Family. This *Valentinian* takes notice of, as he words it, acceptfully to acknowledge how much the most ample Senate was mindful of his Authority; the Council whereof always opposeth unthinking things. And, attributing much to the expensiveness of Women, he determines, in the first Edict of all his Novels that are placed by themselves, and directed to *Aabinus*; that, If a Man dies and leaves his Wife, she shall not recover of their Sons, or the Heirs of her Husband, any such Profits or Fruits. No more shall an Husband from the Sons or Heirs of his Wife, if he survive her.

This Year ca-  
lamitous to  
Constantinople.

Theodosius re-  
quires all to  
attend him  
upon an Ex-  
pedition.

8. For the Year of our Lord CCCCXLV, *Valentinian Augustus* the sixth time bore the Title of *Consul*, together with *Nomus*. This Year, though remarkable also for Peace, was too much remembered at *Constantinople* for the disasters which befel that City. For, the people fell into a tumult in the Cirque; and in that mad hurly burly many were killed. A great Famine raged also there; which was followed by the Pestilence: and the great Church (over and above) was consumed with Fire, as *Marcellinus* hath briefly noted. This made the Town, doubtless, not very agreeable to *Theodosius*; who would be more at his ease elsewhere, though we know not of any Progress he took, or Expedition he made. But, toward the latter end of *February*, either purposing to make one, or to make sufficient provision for his Journey when he should so do; to let all persons know what they should hold to, and to prevent excuse, he published his Edict inscribed to *Taurinus*, the *Præfectus Prætorio*; wherein he declared, that, When he undertook any such Expedition, the wonted Attendance and Services of the Provincials where ever he passed, ought to be paid him. Commanding, that none be excused from furnishing out the *Angarie* and *Parangarie*, or Waggon, or from any other Duty; but all whatsoever, whether belonging to his own House, to that of the Venerable Emperors, to the *Sacrosanct* Churches, or any illustrious Families, without any excuse to be obtained by any Pragmatick or Writing procured from the Prince, shall be obedient, and submit to the Indictions of the *Præfect* at the time of such his Expedition. By this we understand something of the nature of the Emperors purveyances, and how he was enabled to travel; and we suppose a ready compliance would have been given to his pleasure herein, though he had not used such Phrases and Titles as swell above the condition of a Mortal; as, *Nomen, Divina Domus, Divina Aduotatio*, and *Sacrum Oraculum*, applied to himself, according to the custom which still obtained; especially, when any Laws were made for maintaining the Grandeur and Authority of the Prince.

9. *Valentinian* this Year having nothing to do with War, spent such time as he allowed to business with his *Quæstor*, about Civil Acts. About the beginning of *April*, *Auxentius*, the *Præfect* of *Rome*, informed him of things in that City which needed Reformation: and procured a Rescript for calling back such as were *Corporati*, or belonged to certain Companies, although they had procured themselves to be received in the number of Clerks, as far as the place of Deacon. But about the beginning of *June* came Messengers out of *Africa*, from the *Numidian* and *Mauri* *Sittenses*, which was managed by *Palladius*, a *Comes* and *Tribune*, and one *Maximian*, a Man of laudable Qualities, as the Emperor commends him. They offered several things for relief of the distressed Provincials, who had been harried by that publick Calamity of the *Vandals*; and received such Answer by way of Edict, directed to *Aabinus*, the *Præfectus Prætorio*, as *Valentinian* found himself obliged to make. One was, that In reference to the Tributes, which they were no way able to pay as formerly, they should only pay the eighth part, both for the private Lands, and those they called *Emphyteuticæ*; so as the Provincials of *Numidia*, for all Accounts put together, should pay four thousand and two hundred *Solidi* only, one thousand and two hundred Military *Annone*, and two hundred *Capita*, for Cattel. Such as held in perpetual Right Lands of the Prince his Domain,

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A. G. &amp; No-

mo, Coll.

L. 2. de Quæstor.

C. 1. de Quæstor.

C. 1. de Quæstor.

C. 1. de Quæstor.

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Domain, should also pay a seventh part. And of other Incomes, as of Salt, *Al-lom*, and other things a fifth part, or according to the number of Men, and the possibility of the matter. All which exaction shall be removed from the *Curiales*, and be managed by the Officers of the Magistrates. Left they should be forced to carry provisions for the Army too, he permits them to exchange them for Money at easie Rates.

10. To the *Mauri* *Sittenses* he confirms all their privileges granted by former Princes, who shall pay, all Titles put together, five thousand *Solidi*, and fifty *Capita*, for the *Annone* they were wont to find. He commands the *Præfect*, that he suffer no Officers by any pretence to put themselves upon these Provinces, besides the *Dux*, *Consularis* and *Præfident*, the ordinary Magistrate; nor so much as those they called *Curiosi Littorum*. To the City of *Constantina* in like manner, he confirms their privileges, and takes care for removing their Grievances. To such *Advocates* as continue their Abode in *Africa*, shall not be reckoned that time that the *Barbarians* raged in the Country, so as to shorten their term (which was wont to be limited, till the scarcity of Pleaders procured them to be perpetual, or as long as they pleased) and when they have completed their term they shall enjoy the Dignity of *Clarissimi*. And because the Courts of the Cities, and Places Corporate, or the number of the *Curiales* was brought very low, he allows for good such Acts as shall be dispatched by three *Decuriones* in the presence of a publick *Exception*. Forasmuch as the old way of Judicature in the *Cognitor Decreti* was ceased, Appeals should be made to the *Præfect* of the City; and because of the distance beyond the Sea, a years time shall be allowed them. No Dependents, that they may be able to withstand the Invasions of *Barbarians*, shall absent themselves from the Grounds of their Lords, and such as live in Mid-land places shall spend one Month in the year upon the Borders, that they may not always be separated from their Families. He charges the *Dux*, that no armed Men be suffered, but such as shall willingly offer themselves for repulsing the Enemy, and those to be well looked to and governed, who shall enjoy what Booty they get from him, except such Slaves as the Provincials have lost. In conclusion, when Judges have completed their term, they shall not depart out of their Province, till three Months be expired, either to receive commendations for their good Government, or to be answerable for their evil Deeds.

He provides  
against the  
murder of  
Murder.

11. This Emperor had been abused too much at this time in pardons surreptitiously obtained in case of Blood. So as he found himself obliged to take order for stopping such loose Indulgence, and to distinguish betwixt Murder and casual Homicide. The case of a Man's violent death he would have tried in the Province where the Fact was committed, and if it proved Murder, the Killer to be put to death according to the former Laws, notwithstanding a pardon produced under the Prince his own Hand. None should escape punishment but those in the Lapies of whom, fortune only could be blamed. And if for the future, any pardon should be granted to willful Murderers, the Magister of that *Scrinium* which gave Answers to Petitions, should fine in five pounds of Gold, and a *Mortalis* of any *Scrinium*, besides the loss of his place be banished for the space of five years. This is directed to *Maximus* as second time *Præfectus Prætorio* and *Patritian*, and concludes with a Prayer, that the Divinity would keep him safe for many years, the most dear Parent of the *Augusti*. It was dated on the eighth of *December*, and proposed to publick view in the *Forum* of *Trajan* on the twelfth day of the same Month, by the *Præfect* his Edict, according to the custom.

British falls off  
from the Em-  
pire.

12. The CCCCXVI Year of our Lord was opened with the third Consulship of *Britius*, and that of *Symmachus*; a Year we shall find too remarkable in diverse respects. *Africa*, *Spain* and *Gall* were at this time, as we have seen, seized and possessed by several Barbarous Nations; and now the time was also come, that our *Britain* should fall quite off from the *Roman* Empire. The Reader indeed by that small intelligence he hath had of it might justly have concluded, that it had been alienated long ago. Well might the Poet sing his *penitus toto*. So little do we hear concerning it in those times, dark enough in themselves, but dimly dark as to it, that it might well seem separated, and indeed another world. More than a wonder it is, that amongst the numerous Laws we have perused, and mentioned in this Volume, but one single Edict or Rescript, but one bare Constitution is to be found concerning it, or directed to any Magistrate or Officer resident upon it. What shall we attribute this to? to what cause shall we assign it? To the great distance?

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distance? But some other Provinces were as distant as it from the Emperor's Court, especially when it was in *Gall*, as sometimes it was. Of *Spain*, of *Alyricum*, of *Africk* we hear often in *Theodosius* his Code; but of *Britain* there is a deep silence. Was it because there were no complaints, or nothing that was out of order, that needed the healing hand of the *Quæstor*? Or that also we have reason to doubt. The most probable cause was this, that though the *Romans* had been long in the Island; yet of latter times there was but little intercourse betwixt them and it, little passing from the Southern to this Northern Climate. The Ocean was thought impassable. The British Sea was always dreaded as well as the Monsters here thought to be bred in the *Caledonian* Wood. But since that the Barbarous Nations began to rove about in Boats. Since *Scots*, *Picts*, and especially the *Saxons* became such Pirates, that Officers on purpose were appointed to defend the Coasts from their violence and Rapine, *Bologne* and *Dover* did not seem far near as formerly they appeared. Danger of passage put an end to pleasure in crossing the Strait. Nothing but necessity could procure a Voyage. This was the cause why *Britain* grew strange by degrees, and seemed indeed another world before she was turned Barbarous: what sometimes proves her defence (the Ditch about her) then was the Rampart against her Friends, and an Inlet to her Enemies. But, as great effusion of Blood, and expence of spirits render an Animal more capable of Impressions from external violence; so happened it to *Britain* in the exhausting of her strength; which caused her to languish. This how it came to pass we shall now tell in order, and all together; which will more conduce to the understanding of *Roman* British Affairs, than if we had told some Scraps of Stories scatteringly, as by chance we met them.

What of moment passed here since the end of Constantius his Reign.

Theodosius.

Africk.

To him British were devoted of her strength.

It is said by some that the Northern Nations.

13. Just at the end of *Constantius* his Reign, and at the entrance of *Valentinian* we have seen from *Amianus Marcellinus* how the fierce Nations of the *Picts*, *Scots*, *Attacors* and *Saxons* broke the Limits, and vexed and harrailed *Britain*; how the Issue of it was, that *Theodosius* the Elder, Father to *Theodosius* the Great, was sent hither to repress them, which he gallantly performed. For he brought the Island into so good posture, that it had a lawful Governour; and from the Emperor that then reigned, got a name of *Valentia*. So continued it in repose and settlement till that *Maximus* was saluted Emperor here by the *British* Soldiers, and usurped, who is also said strenuously to have repressed and overthrown the *Picts* and *Scots*, who then also made their Depredations. *Gildas* in his Book concerning the destruction of *Britain*, as to this Revolution writes, that a vast Wood of Tyrants, to use his Phrase, sprung up here about these times, and the Island retaining the *Roman* Name indeed (*Romania*) but little of the Manners or Laws, sent into *Gall* *Maximus*, attended by many Soldiers, but such as were tumultuous, and over and above adorned with Imperial Ensigns, which he never decently wore, but as Tyrants were wont to compels them. This Man by craft rather than any valour, having brought the Neighbouring Provinces into his Net, and by his perjury and lyes joyned them to his wicked Dominion, stretched one of his Wings as far as *Spain*, and the other into *Italy*, and establishing the Throne of his most wicked Empire at *Triers*, raved with so great madness against his Masters, that of two lawful Emperors, the one at *Rome*, and the other elsewhere, he bereaved of his most religious life. But presently as he proceeded in such cursed and audacious practices at *Aquileia*, he was smitten on the Head (he means slain) who had cast down the honoured Heads of the whole world from their Sovereignty.

14. But, by this means became *Britain* bereaved of her Soldiers, and Military Men; as also of her Governours, (how cruel soever) and in a manner of all her Youth, which following the Tyrant into *Gall*, never more returned, and thereby growing utterly unskillful in matters of War, first was invaded by two Transmarine and cruel Nations; the *Scots* from the *West*, and the *Picts* from the *North*, under which the lay stupified, and groaned many years. This first was invincible cannot be meant of the very first invasion made by these Nations, as we have seen from *Amianus*, but of the first most signal and violent Impression made by them. And why he should call them *transmarine*, a reason is rendered by *Beda*, not for that they lived out of *Britain*, but because they were remote from part of the *Britains*, by two interjacent *Friiths*, whereof the one from the *East*, and the other from the *West* pierce into the Bowels of *Britain*, though they do not reach so far as to meet. But some conjecture, that *Gildas* did not mean these *Scots* called *Rewes*, which had already feared themselves in *Albania*; but the *Scots* that inhabited *Ireland*,

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Send to Rome for aid.

Gratian.

Gratian takes away all the strength that remained.

The Romans hide their Treasures, and get them gone into Gall.

Atius sends a Legion.

A Wall of Turf.

*Ireland*, and therefore came from the *West*, as the *Picts* from the *North* of *Britain*. But *Britain* being thus harrailed with their Inroads, and the direful effects thereof, sent to *Rome* with tears, requiring that succours might be hastened away to her Relief, vowing, in case the Enemy were removed to remain constant in fidelity to the Empire.

15. That *Stilicho* defended the Island from the Barbarous Rovers, we have seen abundantly from *Claudian*, who introduceth her speaking so much in his behalf. And from the same Poet we have also learn'd, how when he was to engage with *Alarich*, amongst other Forces, that *Legion* was reckoned which lay in the *Prætorian* upon the Borders against the *Scot* and *Pict*, whence he had sent for it as the rest of the Emperor's Troops into *Italy*. Not long after was one *Gratian* made Emperor by the *Britains*, and after four Months killed by the Soldiers. And into his place they took upon them to promote one *Constantine*, as we have discoursed at large, who passing presently after his usurpation into *Gall*, as *Maximus* did in like manner, took over with him the *British* Youth, and what strength had been left in the Island, he utterly removed, and so exposed the exhausted life more than ever to the fury of the *Northern* Nations. Now we are told by *Zosimus*, that the *Barbarians* inhabiting beyond the *Rhine*, rebelling against this *Constantine*, then in *Gall*, reduced the Inhabitants of *Britain* to that condition, that they fell off from the *Roman* Empire, and refusing to obey the *Roman* Laws, would live, as they themselves pleased. The *Britains* therefore taking Arms, refused to undergo no hazards for their Country, but freed their Cities from the incursions of the *Barbarians*; *Honorius*, the Emperor himself, by his Letters advising them to stand upon their Guard. But after that *Rome* was taken by *Alarich*, and *Constantine* the Tyrant slain, others write, that the *British* Army was received by *Honorius*, who reduced the Island also to obedience, though some have said, that then the *Romans* were not able to recover it. But if this was it, we may easily believe what *Blondus* hath written, that when *Constantine* on one side, and *Alarich* on the other, gave such diversion to the *Roman* Arms, the *Britains* being exhausted of their own native strength, and receiving no assistance from the Empire, being continually harrailed, and tired with the Inroads of the *Picts* and *Scots* were forced to treat and make some agreements with them, and to fall off from their obedience to that power which could afford them no protection.

16. Now it was about the ninth Year after the taking of *Rome* by the *Goths*, that the *Romans*, or they that were of *Roman* Blood, and left behind in the Island, not enduring those Threatnings and Insultations of the Nations, hid their Treasures in Ditches, as *Fabius Etbelwerd*, our Noble English *Saxon* Historian relates, and got them over into *Gall*, hoping to find them at their return, wherein yet in a great measure, their expectation failed them. If what he writes concerning the Threatnings of Nations, hath Relation to the Nations or People of *Britain*, their quarrelling with the *Romans*, this much confirms the Revolt now made by them from the Empire; if the words be not rather to be understood of the Barbarous Nations, the *Picts* and *Scots*. But however, it's without doubt, that they shortly after returned to obedience, as was best for them, except they had been in better capacity to relieve themselves, and now they obtain'd upon promising obedience, another Legion for their defence. For they found no faith or constancy in the Rovers, who under pretence of peace and a League, hoped to get the Island into their power. The *Romans* could not but take notice of their design, and how *Britain* by that means was like utterly to be lost, if they did not presently interpose; and therefore *Atius* being also wearied with the importunity of that party which still remained constant in their fidelity, sent away a Legion out of *Gall*, which reduced the Country into an indifferent quiet, and peaceable condition. We are to understand, that now it was, that *Gildas* saith, that *Britain* vowed, if the Enemy were removed, to remain immovable in her fidelity to the Empire. A Legion (unmindful of the late mischief (the murdering of the Emperor *Gratian* some interpret it) is ordered her, which having passed the Seas, presently engaged the Rovers, and having slaughtered of them a great multitude, quite drove them out of the Country, and thereby freed the Inhabitants from cruel death, or imminent captivity. This performed, it set them upon making a Wall overthwart the Island, which should be for a terror to their Enemies, and a defence to themselves. But being made by the Rabble without any good Adverser, nor so much of Stones, as of Turf and Earth, it stood them in no stead at all.

17. *Beda* writes, that in his days the Remains and Footsteps of this deep and broad,

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Vide asserti Primord. Ecclesiæ Britanni, p. 500.

Multipliciter non forent in gentem miseram.

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broad, though useless, Rampart, were to be seen. And he saith it began two Miles distance from the Monastery of *Abercorn* in the *West*, at a place, in the Language of the *Picts*, called *Pewabul*, in the Tongue of the English *Penelton*, and ended near the City *Alcluth*. It was drawn betwixt the two *Firths* of *Dunbrutan* and *Edenburgh*; as *Scotch* Writers describe it, from *Kaer Eden*, or *Edenborough*, to *Kirk-Patrick*, on the Bank of the River *Clude*, leaving *Glasgow* on the South, being eighty Miles more Northerly than that made by the *Romans*. But the Legion which fet them upon this Work, staid not to see it made, being shortly after recalled, when the *Burgundians* grew turbulent; and then for all the Wall, the *Barbarians* returned, and miserably wasted poor *Britain* with Fire and Sword, till News thereof being brought to *Valentinian* the Third; he dispatched away *Gallio* of *Ravenna* with another Legion. But hear how *Gildas* himself tells the Story in his lamentable and melancholick manner. This Legion being returned with great joy and triumph, the fame *Rovers* like so many cruel and ravenous Wolves return upon their former prey, no Shepherd appearing to protect the Sheep, and beat down and trample on all in their way, like standing Corn. Now again "are Messengers dispatched with their Cloaths rent, and earth upon their Heads, "to crave succour of the *Romans*, like as fearful Chickens betake themselves to the Wings of the Hen, beseeching them not to suffer their afflicted Country utterly "to perish, nor the *Roman* name, now indeed merely a name, to be lost and distinguished in the Island. The *Romans* receiving as great an impression from the Story of this Tragedy as humane nature was capable of, made as much haste to their Rescue, as an Eagle can do in the Air, an Horseman upon the Earth, or the most expert Mariner upon the Sea; and like as a mighty Torrent, falling from the Mountains, removes Heaps of Sand which lie in its passage, so did they sweep and cleanse the Country of these greedy *Rovers*.

Another Sup-  
ple fence, which  
again disper-  
sed the Ro-  
vers.

"18. They now tell plainly those, for whose deliverance they came, that they must not for the future expect any such tedious and laborious Journeys from them; or that the *Roman* Legions, or such an Army was to be endangered by Sea and Land, for to drive away a sort of inconsiderable fragging Thieves. They bid them apply themselves to the study and practice of Arms, that by their own valour and conduct they may be able to protect their Country, their Wives, their Children, and (what should be more dear to them) their Lives and Liberty; to stretch out their Hands not naked and disarmed, to be pinion'd by the Enemy, but furnished with Swords, Spears, and such like Instruments of War, ready to assault, and make havock of these Nations which could not be more powerful and valiant than they themselves, except their sloth and idleness caused them to be so. They shewed them how to make another Wall, not according to the former model, but along by the Cities which probably had been built for fear of the Enemies, propounding courageous Exploits to a fearful People, and a Copy to such as were not willing to write after it. Moreover, upon the *Southern* Shoar, where their own Ships lay at Anchor, and the Invasions of the wild Beasts were also feared, they built Watch-Towers at certain distances, and bade them farewell, as never to return any more to them. *Beda* (who had been a little more venerable, had he been something more *British*) though he slightly passeth over all things relating to that distressed and exhausted Nation, and cannot escape some censure for his partiality betwixt the old Possessors, and the Intruders, a little enlargeth this Text, and tells us, this Wall was made of firm Stone, in the same place where *Severus* had made his Rampire, or *Valium*. He adds, that it being yet in his days conspicuous, and much talked of, was eight foot broad, and twelve foot high, passing in a direct Line from *East* to *West*, as to which he appeals to the eyes of those that behold it.

Instructs the  
Natives, and  
bids them fare-  
well.

Another Wall.

"19. And some very Learned Men are of opinion, that this Stone-Wall was raised in the place both where the Turf Wall stood, and that also of *Severus*. Of this belief was *Bechuan*, who placeth it within the same Boundaries, as that of Turfs, betwixt *Abercorn* and *Kirk Patrick*. Besides the Footsteps of the Walls he instanteth in the Remains of the Towns, and of *Roman* Antiquities discovered in the Bricks, and the Inscriptions of Funeral Monuments without controul. Others of his Nation call the place *Grimesdyke*, according to the name then known to the Inhabitants, but will have the Stone Wall drawn from the Mouth of *Tine* cross the Island, by the Suburbs of *New-Castle*, called *Gateshead* (where *Severus* they say also caused a Wall and a Ditch to be made opposite to *New-Castle*) and upon the River *Eike*, or *Scotsath* for sixty Miles, as far as a place not much distant from *Cale*,

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life, Westward. But let us see what all this labour, and the good will of the *Roman* Legion amounted to. It was no sooner gone, but Multitudes of *Picts* and *Scots* again appeared upon the Shoar, and like a Swarm of Caterpillars overspread the face of the earth, differing indeed in manners and customs from each other, but both alike greedy to shed Blood, having their Faces more covered with Hair, than their secret parts with Cloaths; and they confidently leaped on the Northern Part of the Island as their own, from the utmost Bounds thereof as far as the Wall. Upon the Wall the *Britains* set a Guard, but such an one as was fitter to eat, than to fight, trembling at the sight of an Enemy, and pining away for the very thought of War. The *Barbarian* had certain Hooks wherewith he would pull down to the ground the unwary and helpless Defendant, who in so great misfortune was in this respect happy, that he lived not to see these dreadful calamities which shortly after befel his Relations. In short, the Guard ere long quitted both the Wall and Towns adjoining; and then followed the usual flights and dispersings of a poor sheephish and miserable people; for to no other than such a preying of Wolves and wild Beasts can this thing be compared, the miserable *Britains* running away, and when easily overtaken, being laughed like Sheep, with complaints and reluctance, but no opposition. Those that remained alive, felt in another manner the dreadful effects of this invasion; so severe a Famine following that Havock, which had been made of all things, that no Food could be obtained, but what only could be got by hunting.

The Guard  
quits it.And a miser-  
able devastation  
follows.They send to  
assist in vain.Some make  
Salutes upon  
the Enemy,  
and receive  
benefit by  
their Prayers.

"20. The miserable Remnant of the *British* Nation, in this desolate condition, having cause to apprehend another invasion, or rather perpetually subject to them, after some time wrote to *Aetius* (so it ought to be written, as the Reader finds cause to believe, though some Copies have *Aegitius*, and some *Aequitius*) a *Roman* Officer, after this manner: *To Aetius thrice Consul the Groans of the Britains*. Then after a few Complaints: *The Barbarians drive us to the Sea; and the Sea drives us back upon the Barbarians. Betwixt these two sorts of death, we have either our Throats cut, or are drowned*. But no succour or relief could be obtained. In the mean time, the Famine was so violent, that many yielded up themselves to the cruel Enemy, purchasing a little Bread with everlasting Slavery: others more valiantly got up to the Mountains, Caves and Woods, whence they made Salutes upon the Robbers; and now first of all betaking themselves to Almighty God, and trusting in him, had for many years success against, and killed many of them, as they ranged abroad for Booty. Now the boldness of the Enemy for a little time ceased, but not the wickedness of the People; it being ever, as it is now (saith our Author) the custom of the Nation to be weak to repel an Enemy (to blunt his Weapons, as he expresseth it) but strong enough to support Civil Wars, and the heavy burthen of their Sins: infirm to execute the effects of peace and truth, but able to practise wickedness and lies. The ravenous *Iris* (*Hiberni*) then return home, to come back again after a short time. The *Picts* thenceforth fixed themselves, and rested in the utmost part of the Island, making some Incurfions and Depredations now and then.

The great turn  
of the State of  
*Britain*.

"21. Now happened the great turn and alteration of the State of *Britain*. The *Iris*, whom *Beda* calls the *Scots*, returned home; and the *Picts* remained quiet in the Northern Part of the Island, where we must look for them when we come to speak particularly of them, and of their Kingdom. And from this time of *Aetius* his third Consulship, we find reason to date the utter revolt of *Britain* from the *Roman* Empire. Formerly, it's true, they purposed to establish themselves in a distinct Body, and Authority; but both Parties still came together again; the Authority of the Empire was owned, and Forces were sent to repress the outrageous Attempts of the savage Nations. But now, as it were by consent, they parted. They sent to *Aetius*; but *Aetius* did not answer them. So long as either they owning their Dependence desired aid, or the other vindicated their Right, and endeavoured to protect their Subjects, we own them as *Related*, and *British* still a *Dioecesis* of the Empire. But now by the *Roman* Laws themselves, a separation or *Alienation* was made. The *Romans* neglecting to send Succors, having given the Inhabitants formerly warning to provide for themselves, and taking leave as never to return, left her as a thing *Derelict* to the occupation of any one. And (if in this matter we may join animate with inanimate things, for this our Island may answer to both) *Britain* now perceiving in what condition she was, quite alienated her self; in her purpose and resolutions took her flight from the *Roman* interest, *sine animo revertendi*, without purpose of returning. Of this

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she gave evident Testimony, when, the Year after the Confutation of *Ætius*, she completed that Refutation which in this Year she must have thought of and began, of choosing a King to govern her; possibly, after his own Lust, and not according to the Dictates of the *Roman Laws*; which was *Fortigern* as he is commonly called.

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446.A Digression  
to consider  
of the State of  
Britain.Britain looked  
on by the Ro-  
mans as an-  
other World.And difficult-  
ly they kept itAdrian flares  
with the Na-  
tives.Adrian's soldiers  
were drawn  
towards.Sextus did  
little against  
them.

22. Thus we must part with *Britain* now, as fallen quite off, and no longer a Member of the *Roman Empire*, of which since the days of *Julius Cæsar* it had had the Name; and since the days of *Claudius* it had (not all of it we mean) a true Title to be called. At parting, we would gladly take leave in such a manner as may give the Reader further cause to remember her, by a fuller knowledge of her State and Condition, while Imperial. Although she was but a very small parcel of the *Roman Empire*, considered in its Bulk and Grandeur, she was by the *Romans* thought fit to be termed *Another World*, as wholly severed from their Continent; and not only by their Poets, but their graver Writers; and that not for flourish only, but in very good earnest: inasmuch, that, upon the apprehension herof, *A. Plantius* his Soldiers, as *Dio* writes, were very unwilling to follow him out of *Gall*, in his Expedition hither; seriously imagining it to be some Service quite out of the World. And this might make them think it indeed another World, because they knew no Bounds of it, till the Government of *Arigola*, Father in Law to *Tacitus* the Historian, and General of *Domitian*; who, overcoming the *Orderices*, subduing the Isle of *Anglifer*, overthrowing *Galbaeus*, with the *Caledonians*, or most Northern *Britains*, and causing the *Roman Fleet* to coast about it, found *Britain* an Island indeed; and penetrated into that Sea which, by the Natives, had hitherto been esteemed a Secret, and a shelter. And yet, for all this Conquest and Discovery, such difficult work the *Romans* found it to preserve this now found out plot of Ground, that as before their Colony and *Municipia* had reason to tell them sad stories of the Slaughters they underwent by the Natives: so, after *Domitian*, under *Nerva* and *Trajan*, we hear nothing of our *Britains*, till the time of *Adrian*; who sent to curb and restrain them *Julius Severus*: but he being called away, to quiet the tumults of the *Fews*, they would not be kept in any order, till the Emperor himself was fain to cross over into the Island, in the Perambulation of the Provinces, with which *Florus* the Poet twitted him.

23. And he, notwithstanding all his endeavours, and amending several things he found amiss; yet, perceiving there was so little hope to keep what *Arigola* had acquired, or to make that which the General said to his Soldiers good, that after the Defeat of *Galbaeus*, it would be easier to retain them all in Peace and Obedience; that he attempted a thing more glorious to the *British* Nation than to himself. He thought it best to share betwixt what, as *Tacitus* tells us, *Augustus* and *Tiberius* called a prudent Design, and the Ambition of the latter times. They thought it wisdom to neglect piercing further into that which *Julius Cæsar* had but discovered; but, in the time of *Domitian*, nothing would serve but the Conquest of the whole Island. He knew the *Roman* Glory was concerned not to quit the whole; and yet he found it would no way suit with the Conveniences of the Empire, to endeavour the retaining of the whole, and therefore took a middle way to part Stakes with the Islanders; and leaving to them the Northern parts, caused a Wall or Rampart to be raised eighty Miles in length, from the Rivers *Tyne* and *Euse*, to secure to the *Romans* one third of their Conquests at least. But, whatever *St. Augustine* faith of *Dons Terminus*, his giving way to the will and pleasure of *Adrian*, *Adrian* gave large scope to *Terminus*, drawing back the *Roman* Soldiers about an hundred Miles from the Post where *Arigola* had placed the first *Prætorius*, or a Castle furnished with a Garrison betwixt *Dunbritton* and *Edenborough* *Friths*, the narrowest one neck of Land in all *Britain*, then called *Gloia* and *Bodaria*. *Adrian* being gone out of the Island, the *Britannians* began quickly again to be tumultuous, and to reduce them to obedience, by *Antoninus Pius*, was sent *Lollius Urbicus*; who indeed did him excellent Service, and drove the Northern People into a narrower strait than they were before, raising another Wall or Rampart of Turfs betwixt the two *Friths* now mentioned. But, when a larger Boundary would not quiet them, it was little probable that they would be content with a narrower Confinement. They again renewed their Hostilities; and, though sometimes they were suppressed, yet continued so long and so far to manifest their uneasiness and reluctance under the Yoke, that this obliged *Severus* himself, with his two Sons, to come into *Britain*. He, for all the terror of his Name and Authority, found so hard a task of it, that, after the loss of fifty thousand Men, he was glad to make a League with the Natives, and by

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The Roman  
Divisions of  
Britain.

by it to oblige them to retire again; but not into so narrow a Compass as *Lollius* would have forced them. But, he drew the Boundary back again, and raised a Wall of Stone, on the Foundation of that formerly made by *Adrian* of Earth and Timber, almost the whole way from Sea to Sea. (What reason he had hence to be called *Britannicus* we know not; as also, why *Spartianus* should term the building of this Wall the greatest Glory of his Reign. Sure it was a Monument of the Romans' courage and resolution of the *Britannians*. But, so many Walls were here made by the *Romans* to repress their courage and resolution, and this was the last we know of, which all, uniformly and chiefly goes by the name of the Wall; except we mention one, said to be raised by *Caracallus*, who usurped, being employed here in the Reign of *Diocletian*. But this is founded upon the relation of *Geoffrey of Monmouth*, and other such like Testimonies. That *Theodosius* the Elder, and others, endeavoured to make good this Limit, we need not doubt.

24. Yet used the *Romans* other means, and some diverse from those in other Provinces, to keep *Britain* in subjection. I hat share of it they thought fit to call *Roman* they divided into several parts, for a clearer distinction, and better Government. Split into four (not to mention the general Partition into Upper and Lower) as, *Maxima Cæsariensis*, *Flavia Cæsariensis*, *Britannia Prima* and *Britannia Secunda*. This appears from the Breviary of *Sextus Rufus*, which he dedicated to *Valentinian* the Emperor; of which some imperfect Copies have but three, and leave out *Flavia*; one of which Copies was light on by learned *Cambden*, and caused him to mistake in this Enumeration. This Partition most probably was made by *Constantine* the Great, from whose *Præcones* was *Flavia* so named, as *Maxima* from the greatness of it. Afterwards, when *Theodosius* the Elder had restored the *Roman* Force of things in *Britain*, and recovered a great part of the Country, lost to Natives, he increased the Division, by adding a fifth Province, with the name of *Valentia*, from his Master. Now, of these, *Britannia Prima* is most rationally thought to have been that part of the Country, lying from the *Gallick* Sea, to the River of *Thames*, and the *Estuary* of the *Sovere*. *Britannia Secunda* reached from the *Sovere*, to the *Irish* Sea. *Flavia Cæsariensis* lay betwixt the Rivers *Thames*, *Sovere* and *Humber*. *Maxima Cæsariensis*, betwixt *Humber* and *Adrian* his Wall. And *Valentia*, having been formerly part of *Maxima*, betwixt the Walls of *Adrian* and *Urbicus*; *Lollius*, or that betwixt the *Friths*. Here, if the reason for this Partition thus limited be required, the Author of it answers, that he had observed the *Romans* ever to call these Provinces the *First* which were nearest to *Rome*. For example; *Germania Prima*, *Belgica Prima*, *Lugdunensis Prima*, *Aquitania Prima*, *Pannonia Prima*; all which were nearer *Rome* than any that had the name of *Secund*: which were more elegantly called *Inferior*, as the *First* were termed the *Superior*. And, whereas in the declining of the Empire, those Provinces only had *Consulares* which lay next to Enemies, as he observed out of the *Notitia*, not only in *Gall*, but in *Africa*: and in that *Notitia*, both *Maxima Cæsariensis* and *Valentia* have such Magistrates assigned them; therefore he rationally thought them to be those which lay next to the Walls, and, at last, were most subject to the Attempts of *Picts* and *Saxs*.

25. But there is another Argument for his threefold Division of *Britain*, as he found it in some corrupt copy of *Sextus Rufus*, wherein the *Flavia Cæsariensis* is left out. He found that it had been observed (and that truly) how the Policy of the Church imitated that of the State; and Arch-Bishops were founded in those Cities where the *Roman* Presidents were wont to reside. Now, we read how *Britain* had of old three Arch-Bishops, viz. *London*, *Tork* and *Caer Leon* upon *Wise* in *Monmouthshire*. Therefore he concludes, that the Province belonging to *London*, since translated to *Canterbury*, was the *Britannia Prima*. *Wales* was the *Britannia Secunda*; and that belonging to *Tork*, and what extends as far as the Wall, to have been the *Maxima Cæsariensis*. But if he concludes that the Province lying next, or belonging to the chief City, had the name of the first, because it appertained to that which being chief, or the *Metropolis* of *Britain*, had the first Arch-Bishop seated in it; there is another that will contend with *London* for that Title in the *Roman* times. For, although *London* hath been, as at this day, for very many Ages, the chief City in *Britain*, and above thirteen hundred Years ago was accounted an old Town, and filled *Aurelius* in the days of *Ammianus Marcellinus*; nay, commended long before that, as of great Fame and Renown, even in the time of *Tacitus*, for the concourse of Merchants, and provision of all things necessary: Yet *Barterius* assigns *Tork* as the more ancient or truer *Metropolis* of this Diocese of the *Britannians*.

Q. q. q. q.

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Not so much for that it was a Roman Colony, which *London*, it's concluded; was not; but also, because the Emperor's Palace and *Prætorium* were there. There is mentioned also the Temple of *Bellona*; and the Historian calls it *Chrysis*, by way of Excellence or Preheminency. I add the Temple of *Bellona*, as that indeed which gave the chiefest occasion to its being the *Metropolis*. For, when the more Southern parts of the Island were subdued, and the Northern remained refractory, and perpetually administered some Incentive for War, *Tork* was the place where the Governors chose to make their abode; as nearest, and at hand to oppose the Northern Nations. Therefore (we suppose) *Severus* found a Palace, a *Prætorium* and a Temple, and did not make them; and, as he, his Successors, when in this Island, there made their usual Residence: and, as he, to *Constantine* there died. There was the Court of the Prince, the Court of Justice, and either the *Dennier* resort lay; that of Merchants being left to *London*. That *Eborac*, Bishop of *Tork*, in the Council of *Arles*, under *Constantine* the Great, subscribed before *Re-titus* of *London*, it will be more convenient in another place to shew.

25. But such was the Partition of *Britain*, and the Government was suited to it; to be sure, after the Model of *Constantine*. Indeed, what it might be called before that time, as to Terms or Titles of the Governors, is not so easy to determine; it being a controversy betwixt two famously learned Men; our *Camden*, and *Patri-volus*. The former affirms, that *Britain* was a Province neither *Consular* nor *Pro-consular*, but *Præfidalis*, as belonging to *Augustus* (after that Division we related to have been made by him of Provinces betwixt himself and the Senate) and had its own *Proprætor*. But the latter instanceth in several that governed as *Consulares*, viz. *A. Plantius*, and *Petilius Cerialis*, both mentioned indeed by *Tacitus*, in the life of *Agrippa*, by the Title of *Consulares*. But afterwards he confesseth it ruled by *Præfides*; particularly, by *Virius Lupus*, under *Alexander*. Now, that's commonly known that *Augustus*, as *Dion Cassius* relates, did, in the Division, refer to himself such Provinces as were most exposed to the Enemy; under pretence to rid the Senate of trouble, but with design to weaken it, and strengthen himself, by the Conjunction of the Legions. The Historian reckons up those very Provinces, but amongst them *Britain* is not to be found; and it may be answered, that the reason is, because *Britain* was by *Augustus* derelict, who thought it policy not to meddle with it: but it came in afterwards, and *Dio* witnesseth, that such as afterward fell in, fell in also to the Lot of *Cæsar*. But withal, the same Author writes, that there was in succeeding times, some alteration made from this Rule; especially, out of *Italy*; and *Tacitus* his Testimony seems uncontrollable, when he speaks of what was practised in his own time, and under his own observation. To be sure, he at large declares, that many, as *Legati* and *Procuratores*, were sent into the Island, after the time of *Claudius*.

26. Under the Model of *Constantine*, and after his Division of the Country, it is clear enough what both Title and Authority the Governors had. Being one of the *Dioeceses* belonging to the District of the *Præfatus Prætorio de Galli*, it had a *Vicar* of its own; to whom the *Notitia* of the Empire assigns the Ensigns of his Place, and the Magistrates and Officers subject to his Command. His Ensigns were a Book of Mandates shut, covered with Green, and marked on the Back, together with five Cæffles representing to many Provinces, with their several names inscribed. The Magistrates under his Command were two *Consulares* of *Maxima Cæsariensis* and *Valentia*; and three *Præfides* of *Britannia Prima*, *Britannia Secunda*, and *Flavia Cæsariensis*. For his Office, he had his *Principes* out of the Schole of the *Agentes in Rebus*, from the *Ducenarii*; a *Cornicularius*, two *Numerarii*, *Commentariensis*, *Abactis*, *Cura Epistolarum*, *Adjutor*, *Subadjutor*, *Exceptores*, *Singulares*, and the rest of the *Officiales*. By the *Vicar*, and these five Magistrates under him, was the Civil Government administered in such manner as our Policy of the Empire declares. The Military was executed by three great Officers under the *Magistri Militum* of the West, viz. the *Comes Britanniarum*, the *Comes Litoris Saxonici*, and the *Dux Britanniarum*; the several Charges of whom, and the Tracts subject to their jurisdictions, may be discerned by the names of those Towns where their under-Officers and Forces are said to have had their Quarters. The *Comes of Britain* is concluded to have had his Command toward the Inward and Middle part of the Island; and this is because the other two are known to have had theirs upon the Maritime and Northern Coasts. For, the *Notitia* assigns not to him any Forces, nor mentions any place subject to his Command (though we know of several Legions that lay in the inward parts of *Britain*) because, as *Pancirolos* thinks, at the writing of it, al-

A. D.  
446.Consularium  
signum A. Pla-  
ntii præfatus,  
p. 662, cum No-  
tis Legi.  
Briti deinde  
Britannia con-  
sularium Puli-  
um Cerialium au-  
cipit, p. 618.  
Lib. 53.Notitia Imp. Oc-  
cid. Sub Dispo-  
sitione  
viri spectabilis  
Comitis Litoris  
Saxonici per  
Britanniam.The Govern-  
ment.

A Vicar.

Subordinate  
Magistrates.

Civil.

Military.

Comes of Bri-  
tain.

Sect. 5.

most the whole Island was over-run by *Barbarians*. Indeed, it was in very ill plight; and, had he had his Forces here in Garrison, there would have been no such need for the Natives to fend so often as they did, about that very time, to *Rome* for succour. But he and his Army were, in truth, driven away; and also, we fear, his *Officiis*, though these several Members of it be registered in that Survey: as the *Principes* from the Office of the *Magister Militum Præfatis* every other Year, *Commentariensis*, two *Numerarii*, *Adjutor*, *Subadjutor*, *Exceptores*, *Singulares*, and the rest of the *Officiales*.

27. But, if *Pancirolos* his reason be valid, why should we not find the condition of the two other great Officers the same? Can we imagine that had the *Comes Litoris Saxonici* *per Britanniam*, or especially, the *Dux Britanniarum*, had such numerous Troops about them as the *Notitia* musters, there would have been such outcries made, and tears spent for the obtaining of one Legion? The former hath no fewer than eight *Præpositi* mentioned under his Command; and one *Tribune*. Of these, the *Præpositus* of the *Numerus*, or Cohort of the *Fortenses*, lived at *Ostham*, thought to be *Hastings* in *Suffex*: the *Præpositus* of the *Tungriani* (or those that were raised about *Tongres*, in *Brabant*) at *Dubris*, or *Dover*: the *Præpositus* of the *Numerus* of the *Tarnacenses* (or those about *Tournay*) at *Lemanis*, or *Lime*, very anciently another Port Town in *Kent*: the *Præpositus* of the *Numerus* *Brandanensis* of the *Dalmatian* Horse-men at *Brandanum*, or *Brancaster*, in *Norfolk*: the *Præpositus* of the *Numerus* *Gariannonensis*, of the Horse-men called *Equites Stabuliani*; who quartered at *Gariannonum*, or *Caistor*, near *Tarmonth*, in the same County. Then follows the *Tribune* of the first Cohort of the *Pæstii* (possibly for *Pæstarii*, the inhabitants of *Pæstalis*, a City of *Gallia Belgica*; or *Pæstii*, a People of the Alps in *Italy*) who had their abode at *Regulium*, or *Reculmer*, in *Kent*. The former *Præpositi*, *Pancirolos* thinks Commanders of *Auxilia*, and Horse; and this *Tribune* as Officer also of a Cohort, to be set amongst the Legiary *Præpositi*, below them. For, now follow three *Præpositi* of Legions: The former of whom is he that commanded the second Legion, *Augusta*, which kept Guard at *Ratupis*, or *Richborough*. The next is the *Præpositus* of the *Numerus* of the *Abulci*, who had his Quarter at *Anderida*, possibly, *Newenden*. And the last, the *Præpositus* of the *Numerus* of the *Exploratores* (so called, because their duty was to make discovery of the State and Motions of the Enemy) who had their Station at *Portus Adurni*, or *Ederington*, in *Suffex*. For his Office, he had it thus furnished: The *Principes* of it was out of the Office of the *Magister Peditum Præfatis*. Then he had two *Numerarii*, and a *Commentariensis*, both out of the aforesaid Office; *Cornicularius*, *Adjutor*, *Subadjutor*, *Reverendarius*, *Exceptores*, *Singulares*, and the rest of the *Officiales*. This *Comes* had, as others of his Rank, for the Ensigns of his place, a purple Book, with the like Notes; together with his *Codex*, and the Images of these nine places where the *Præpositi* and the *Tribune* lay in Quarters.

The Ensigns  
of his Autho-  
rity.The Dux Bri-  
tanniarum.

28. In the last place comes the *Dux Britanniarum*, with the Muster-Roll of such an Army, as half of it would have affrighted the *Picts* and *Scots* in their greatest resolution, and caused them to betake themselves to their Heels again. For, under his disposition, as the term of the *Notitia* is, is first placed the *Præfatus* of the sixth Legion; in the next place, the *Præfatus* of the *Dalmatian* Horse, having his Quarters at *Præfidium*, or *Patrimington*, in *Holderness*, near the Sea: the *Præfatus* of the *Crispian* Horse at *Danum*, or *Dancaster*: the *Præfatus* of the *Catafractarian* Horse at *Morbium*, possibly *Morby*, in *Cumberland*: the *Præfatus* of the *Numerus* of the *Barcarii Tigritenses* at *Arbeia*, or *Ferby*, in the same Shire: the *Præfatus* of that of the *Nervii Ditiensis* (Nervii were a People of *Belgia Secunda*) at *Dißis*, or *Digamy*, in *Carnarvonshire*: the *Præfatus* of the *Numerus* of the *Vigiles* (or Scouts) at *Concan-gis*, possibly, in *Kendal*, in *Westmerland*: the *Præfatus* of the *Numerus* of the *Exploratores* at *Lavates*, near *Bowes*, in *Stancemore*, in *Richmondshire*: the *Præfatus* of the *Numerus* of the *Directi*, at *Pæstera*, or *Burgh* upon *Stancemore*, in *Westmerland*: the *Præfatus* of the *Numerus* of the *Defensores*, at *Broconicum*, or *Bongham*, on the edge of *Westmerland*: the *Præfatus* of that of the *Solenes* (from *Solis*, a Town of *Cilicia*) at *Maglona*, thought by *Camden* to be *Machleneth*, in *Montgomeryshire*; where they lay to restrain those that lived on the Mountains: the *Præfatus* of the *Numerus* of the *Pæcenses*, who lay at *Magi*, *Maifeneith*, or old *Rador*: the *Præfatus* of the *Longoniciarii*, at *Longonics*, or *Langcheffer*, in the Bishoprick of *Durham*; and lastly, the *Præfatus* of the *Numerus* *Derwentenses*, so called from *Derwent*, where it lay quartered; a Town upon the River *Derwent*, seven Miles from *Tork*; thought to be *Aldby*. All these *Præpositi*, fourteen in number, have expressed in the *Notitia*

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446.Notitia Imp. Oc-  
cid. Sub Dispo-  
sitione  
viri spectabilis  
Comitis Litoris  
Saxonici per  
Britanniam.



Sect. 5. the places where they quartered, except the first, of whom this is only told in *Præfatus Legionis Sextæ*, without any other addition. And whereas this *Us* is said for his Arms or Ensigns, as other *Duces*, a Book inscribed, with a purple Cover; to it are added the Images of fourteen Munitions, thirteen of which have the same names upon them we have mentioned, as Quarters of the *Præfecti*: only the first over it hath *Sextæ* relating, I suppose, to the Legion. Now what this *Sextæ* should mean but *Tork* it self, I cannot apprehend, where the *Sextæ Legio Victrix* lay for some Ages, from the time of *Severus*; and in *Antonine's* Itinerary to the wonted name is thus added, *Eboracum, Legio VI, Victrix*; and in a Coin of *Severus* hath been also found *Col. Eboracum, Leg. VI, Victrix*.

The Forces of the Limit.

29. These *Numeri*, when put together, made a considerable Force; but yet besides them, a strong Watch was kept upon the *Pallium*, or Wall, being the Limit of the Empire in this Country, all along, or through the Line of it, as the *Notitia* expresseth it. For here lay the Tribune of the Fourth Cohort of the *Largi*, at a place called *Sogodunum*, now *Seaton*, upon the Sea Coast of *Northumberland*. The Tribune of the Cohort of the *Comiti*, who had his Station at *Pons Æliti*, now called *Pontland* in *Northumberland*, the Bridge whereof was probably made by order of *Ælius Adrianus* the Emperor. Next to him we find the Tribune of the *Ala*, or Wing of the *Altores* (from *Alta*, a Colony and City of the *Lugones*, if *Pancirolos* be to be believed) at *Condreum*, or *Chester* upon the *Street*, by the Saxons called *Concester*, though a few Miles distant from the *Kalium* in the Bishoprick of *Durham*. After him the Tribune of the first Cohort of the *Frizagi*, who quartered at *Andobala*, as the *Notitia* calls it; in the Itinerary, *Vindomora*, or the end of the Wall: For this was signified in the Provincial Language of the *Britanni*, at that time by *Vindomora* (*Finis Muri*) as also by *Vindobala* (*Finis Valli*) beyond it no *Æstigia* of the *Ductus* or Tract thereof appearing ever to have been there; the River *Tine* (it is to be thought) serving for a Rampire to keep off the Enemy. And in conformity with all this, the place still hath the name of *Wall-end* in *Northumberland*. The next in order is the *Præfect* of the *Ala Severiana* at *Hunnum*, which *Camden* conjectures to have been no other than that place upon the Wall in the same County at this day, called *Sevenhale* from *Severiana*. After him the *Præfect* of the second *Ala* of the *Altores*, lay at *Cilurum*, which we take for *Cilleyford*, or at least *Seiltier* upon the Wall in the same Shire. Then follows the Tribune of the first Cohort of the *Basavi*, who had his Abode at *Procolitia*, possibly that called *Colecester* upon the *Tine* still in that County.

30. But the Tribune of the first Cohort of *Tungri* kept his mural Watch at *Bor-covius*, still at this day called *Borwick* in *Northumberland*. The Tribune of the fourth Cohort of the *Galli* at *Vindolana*, now *Winchester*, on the Wall, near to *Walton*, by *Beda*, called *ad Murum*, and a Royal Village, in which *Seibert*, King of the *East-Saxons*, was baptised by *Paulinus*. The Tribune of the first Cohort of the *Altores* lay at *Ælfica*, thought now to be *Nethley* upon *Esk* in *Cumberland*. The Tribune of the second Cohort of the *Dalmata* at *Magnæ*, probably some other place upon the Wall, and not *Radnor*, called also by the same name. As for the *Dalmata*, *Pancirolos* takes notice, that they were in these Days the very strength of the *Roman Empire*; but that *Alarich*, in a manner destroyed them, as *Ælficus* shews; so that of the Foot, this Cohort afterward enlarged did only remain; but of Horse several survived. The Tribune of the first Cohort *Ælia* of the *Duci* (which shews them to have been here planted by *Adrian*, as the same Author will have it) at *Ambergann*, possibly some Muniton upon *Cambesek*, a Rivulet upon the Wall. The *Præfect* of the *Ala Petriana*, so called from *Petriana*, at old *Perith* in *Cumberland*. The *Præfect* of the *Numerus* of the *Mauri Areliani* brought in, it may be, by *Arilian*, or *Aballaba*, now contractedly known by the name of *Appelby* in *Westmorland*. The Tribune of the second Cohort of the *Largi* at *Congavata*, near *Cud-brook* and *Ros* Castle in *Cumberland*. The Tribune of the Cohort of the *Spaniares*, or *Æzelodunum*, now probably *Hesham*, a famous Town in *Northumberland*, being once the Seat of a Bishop. The Tribune of the second Cohort of the *Thracians* at *Gabrocenturæ*, not three Miles off from *Vindobala*, now *Gathead* over against *New-Castle*, of which it seemeth a Suburb. The Tribune of the first Cohort, called *Ælia Classica*, at *Tunnocellum*, in probability descent where since stood *Tinnouth* Castle, at the Mouth of the River *Tine*, the Promontory of which the very *Roman* Name it self doth signify.

31. This Cohort, Learned *Camden* thinks, from its addition of *Classica*, to have attended herein Naval Affairs; the *Romani* having their *Luforia* in Rivers, both for prevention,

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from the  
wall.

Gatter Britan-  
nia capta &  
hinc capta  
Tunnocellum  
promontorium  
Tinne vel Tine  
hinc.

Sect. 5. prevention, and making of Incurfions, We have seen indeed largely, that the Empire had such Fleets upon Rivers; but whether on *Tine*, we cannot say; neither seems there to have been such need of them, the Wall having come near to the Mouth of that River, nay, up close to it, as fone will have it, who contend, that the place was called *Pen Bal-Crag*, viz. the Head of a Wall in a Rock. And yet there is a Law extant in the *Pandects*, wherein mention is made by *Florentinus* of one *Seis Saturninus*, who was *Archigubernus* of the *British Fleet*: and *Nero*, from a *Cliff*, or Fleet, gave the name of *Classica* to a Legion. He that next follows, is the Tribune of the first Cohort of the *Morini*, and he attended his Charge at *Glannobanta*, thought to be by *Camden*, *Bambridge* in *Wentfale*, where, of late years, was dugged up an Image of *Commodus*, accounted after the *Herculean* fashion, which he affected. But afterward he changed his opinion, and placed it by the River *Wentbeck* in *Cumberland*. The Tribune of the third Cohort of the *Nervii*, lay at *Aione*, or the place now called *Whitley* Castle in *Westmorland*. After him the *Notitia* mentions a *Cuneus* of the *Armata*, and placeth it at *Bremetacum*, some station *per lineam valli*, and not near *Preston* in *Lancashire*, sixty Miles distant from the Wall, as *Camden*, in the *Proceeds* of his Work would have it. Then follows the *Præfect* of the first *Ala Herculeæ*, the Seat of which was at *Olenacum*, possibly *Elenborough* in *Cumberland*, where remain many Monuments of Antiquity. And in the last place comes the Tribune of the sixth Cohort of the *Nervii*, to whom the *Notitia* assigns a Post at *Fersfuld* thought to be *Worwick* upon *Elen*, near *Carlisle*. These were the Officers and Forces lying for the defence of the Limit to secure the Wall, under the Command of the *Dux Britanniarum*, who also had an *Officium* belonging to him, as others of his Rank, for dispatch of business. This consisted of a *Princeps*, taken yearly out of the Offices of the *Magistri Militum Præfates*; two *Commentarienses*, *Numerarii* yearly out of both the Offices; an *Adjutor*, *Subadjutor*, *Regerendarius*, *Exceptores*, *Singulares*, and the rest of the *Officiales*.

32. If *Pancirolos* reckons right, *Britain* must have maintained at this time, of the *Notitia*, about nineteen thousand and two hundred Foot, and seventeen hundred Horse: yet it sets none down as belonging to the Jurisdiction of the *Comes Britanniarum*: who has only the Image of the Island, and a Book of Mandates for his Ensigns, without those of Castles or Garrisons. That Commentator judgeth, it was because the whole Island was then, in a manner, in the power of the *Barbarians*; but that reason might also have served against setting down the Forces belonging to the other Officers: for when the *Notitia* was composed, the *Britanni* sent often to *Rome* for aid, which they needed not, if half, or a quarter of these *Numeri* had lain in Garrison toward the Wall. The first *Vicar* we meet with, and probably the first of all, was *Pacatianus*, to whom we find one *Edict* directed with the Title of *Vicarius Britanniarum*, forbidding, that one *Decurio* here, should be bound to pay the Tributes that were due from another. But who he was the first *Comes* of the *Saxon* Shoar, we know not, and uncertain it is when first he was made; though it must be when the *Saxons* became so terrible for their Piracy. He is filed by the *Notitia*, *Comes Litoris Saxonici per Britanniam*; and within *Britain* his authority is thought to have been confined, till of late a Learned Man extended it to the Coasts beyond the Seas, lying over against us, as *Cimbria*, *Batavia*, *Belgica* and *Armorica*. To them he finds the name of *Litus Saxonicum* given, because the *Saxons* infested them also, and made great Depredations in them by their sudden Incurfions. And he contends, that this *Comes* being designed to restrain their influence, had power also in those Coasts, as well as upon the Borders of *Kent*; though he had his Denomination from *Britain*, where he ordinarily resided. And yet, by his favour, the *Notitia* mentions no Forces under his Command in any other place, but only in this Island. And it's strange, they should be omitted, and that having a Command of that extent, the Images and Names of only nine *British* Towns or Garrisons should be put into the Ensigns of his Office. As his Employment lay upon the Sea Coasts in the Island, so that of the *Dux Britanniarum* toward the North of *England*, *Dunum* or *Dancaster*, at this day a considerable Town, and standing six Miles within *Yorkshire*, seeming to have been the most Southern Quarter, taken up by his Soldiers.

33. That *Station* being represented in the Ensigns like a Castle, hadli rather in it the Ablative Case, as the next to it is called *Morbis*, and many others in like manner. For some observe, that from the Age *Solinus* lived in (not long after *Pliny*.) and so downward, it was a custom to pronounce the Names of Cities in the fixed

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ib. S. c. 44. sic  
all.

Vide quæ sit  
de Sabinis  
limitibus supra c. 1.  
Sexta. Page  
40.

L. 2. de vacat  
nibus. Th. lib.  
1. c. 10. 2. De  
limitibus supra c. 1.  
Sexta. Page  
40.

Sabin in Mc  
Classis.

Cities named  
in the Ablative  
Case.

## Sect. 5.

Cawleys rail-  
ed.

sixth or Ablative Cafe; or Monopotes. But however, the Romans might give Terminations to, and decline the names of Towns, yet they were generally of British Extraction. They gave names indeed to few places, either in Britain, or other Provinces. But some even here they did, as *Ad Ansum, Aqua Solis, Bovium, Casaromagus, Calcaria, Castra Exploratorum, Colonia, Ad Pontem, Pontes, Spina, Trajectus, Tripontium, Villa Faustini*, and perhaps others to be seen in the Itinerary, which were given upon some unknown accidents, or occasions. For communication betwixt these places, and for the convenience of Travel, when Armies marched, and the Governors visited the Provinces, the Legions were, when otherwise idle, employed in raising High-ways and Cawleys, called *Via Militares, Consulares, Pratorie, Publice, Strate*, or by other names; which course was taken in every Province of the Empire. Now there being mentioned in the Itinerary no fewer than one hundred and fourteen Mansions and Towns, through fifteen Roads, or Journeys; and in the *Notitia* forty six Garrisons, viz. nine on the Sea Coast, under the Command of the Comes of the Saxon Shore, fourteen more inland, and three and twenty *per lineam walli*, all under the charge of the *Dux Britanniarum*; though some of these be the same with others mentioned in the Itinerary, many Streets or High-ways must have been raised for convenience of passing, according to the Roman custom of Travel. And it is no way probable, that a Province so abounding with Stations, Camps, Fortresses and Cities, should have so few as four Ways of Note in it; and yet but so many our ordinary Historians do reckon. Had the *Notitia* given us an account of the Forces and Places under the Command of the Comes Britannia, as well as it hath done of those belonging to the other two great Officers, we might have found more Cities in the Island; of which, *Beda*, from *Gildas*, tells us, there were in these Ages twenty and eight most noble ones, besides innumerable Castles furnished and fortified with most firm Walls, with Towers, Gates and Locks.

34. Yet, as we said, the High-ways are commonly made but four in number, the courses whereof are differently reported, and also in some part their very Names. But one of them is called *Watling-street*, said to run out of the South-East to the North-West; from Dover to Cardigan in Wales, at the Irish Sea. The second is that called the *Fosse*, from the South to the North, from Totness in Cornwall to Lincoln, and so to Cathness the utmost of Scotland. The third is *Ermine-street*, out of the West-North-West, to the East-South-East, from S. Davids to Southampton. And the fourth is called *Ickneth-street*, taking its course by Worcester, and so by York unto Tinnmouth. To endeavour certainty in all these, as one faith, were to conclude unwarrantable conjectures, and abuse both time and the Reader with various opinions, which would amount to nothing. Besides these, there are others mentioned with divers names; as *Fulsa Strata* in Monmouthshire, raised, as Camden thinks, by *Fulius Frontinus*, of whom Tacitus testifies that he subdued the Nation of the *Silures*, having got the Mastery, both over the Valour of the Enemy, and the difficulties of Places. There was another way called *Strata Marcella*, which *Giraldus Cambrensis* mentions at no very far distance, in his Itinerary of Wales, and others would derive from *Ulpus Marcellus*, who was Proprietor here under Commodus, not very long after Frontinus, whose strictness in Military Discipline *Dion Cassius* so much commends. It shall suffice me to say, that if we consider the end and design of raising these High-ways, they were made for convenience of passage, to such Garrisons and Forts as were placed according to the exigency of Affairs, as they might best curb and restrain Domestick or Foreign Enemies, or to Mansions and Places of Abode, where the Civil Magistrates executed Justice, and decided Controversies; which were so situated, as the People might with best convenience meet together. The Cawleys therefore being made for the Towns, and not the Towns for the Cawleys (though convenience of Travel, in such as were built more lately, might be an inducement to set them on, or as near to the Road as could be) they must needs take various courses, and cross several ways, nay, often divert, and north through the narrow cur. And if particular Counties were well surveyed, many Branches of the more direct and straight ones would be found. I have in *Lincolnshire* observed something of this kind, and particularly how one there is derived from that High Street which runs by Stamford, Northward, which crossing the River near *Gunnworth Ferry*, took its course down by *Deeping*, and so into the very Fenny Parts of that County.

35. Enough of Roman Britain considered within her self, as to her Buildings and Inhabitants, whether Native or Adventitious. But we must remember, that as the received

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Lib. I. c. 1.

See Briton's  
Comment on  
Antonine's Iti-  
nerary through  
Britain.See Doctoe  
Plot's Book  
of Oxfordshire.

## Sect. 5.

Forces sent  
out of Britain.Atilia breaks  
the peace.A terrible  
Earthquake.

received Strangers in, so the sent out too many of her own Inhabitants; and upon this account her vigour abated, and her wonted strength was exhausted, being deprived of her Youth by the Ulfurers lately mentioned. This is to be understood not so much of Strangers lying here in Garrison at those Posts we have mentioned, as of true natural Britains, at least born here, though of Roman Parents; or of other Nations, which we see were numerous in the Armies. For the Romans in furnishing their Garrisons, and defending their Provinces, thought it not wisdom to trust the Natives; but in raising their Forces, still transplanted them, as not to be armed in their own Countries. Therefore, besides those whom the Ulfurper Maximus and Constantine took away with them, it evidently appears by ancient Inscriptions, and the *Notitia* of the Empire, that these Companies hereafter mentioned served the Romans in their Wars here and there, dispersed over the Provinces, which were from time to time supplied out of Britain. We read of *Ala Britannica Millaria, Ala quarta Britonum in Aegypto, Cohors prima Aelia Britonum, Cohors tertia Britonum, Cohors septima Britonum, Cohors vicesima sexta Britonum in Armenia, Britanniciani sub Magistro Pedum, Invicti Finiores Britanniciani, Excubitores Fun. Britan.* (both of them amongst the Palatine Auxilia, or Aids) *Britones cum Magistro Equitum Galliarum, Invicti Finiores Britones intra Hispanias, Britones Seniores in Illyrico.* No wonder then it is, that Britain daily exhausted with so many and so great Levies of Soldiers lay exposed to the fury of the Barbarians; for though Natives are more to be feared, as to Insurrections, yet they more vigorously defend their own Country and Interest than others. And hereby that saying of Tacitus, as Camden observes, is proved true, that there is no strength in the Roman Armies, but what comes by Foreigners. If the Reader think fit, he may see both what Troops were furnished out of the several Provinces, and also to what other parts, in that useful Book the *Notitia*. We have made a long Digression in behalf of Britain, though it may justly challenge from us more diligence than other Countries. But so we leave her, till shortly we meet with her again, upon another account, in another dress.

36. We said at the beginning of this Year, that it was too remarkable in divers respects. And this not in the least, that now Atilia puffed up with pride, and delighting in Blood and Cruelty, could not contain himself, but brake the peace with Theodosius, pretending his Tribute was not paid him, and made an Incurtion into the Eastern Provinces, where he cut off at length the *Magister Militum*, which constrained the Emperor to do that by Gold, which his Steel would not effect, and purchased that peace again which was but suddenly to be broken. Agreeable to those Civil Commotions and Ruptures in the Empire was that terrible Earthquake, which *Marcellinus* writes to have happened in this Confulship of *Aetius* and *Symmachus*. It raged in very many places, and therein overturned very many Cities. The Wall of Constantinople, though but new built, it threw to the Ground with fifty seven Towers: Stones of a great Bulk, lately placed in Building of the *Forum of Taurus*, fell down, yet did no other hurt. But many Towns being ruined, a pestilent vapour arose, which caused a Plague, and this, joined with a Famine, destroyed many thousands of Mankind. This Earthquake we take to be the same with that which *Evagrius* writes to have happened in Theodosius his Reign, and said to have been the greatest and most memorable of all others: such, as by its greatness, rendered inconsiderable all that were before it. It afflicted, he had almost said, the whole world. Many Towers in the Palace fell to the ground; the Wall of the *Cheronesus*, called the *Long*, tumbled down; the Earth gaped, and swallowed many Villages, besides other many, nay, innumerable other Calamities both by Sea and Land. Some Fountains were dried up, in other places water in great quantity broke out where formerly it had not been known; great Trees were torn up by the Roots: heaps of Earth were so shaken together, that they were raised into Mountains. The Sea cast forth dead Fishes; in many Islands were overwhelmed and sunk; Ships sailing on the Sea, by a sudden retrocession of the Water, were left on dry ground. In conclusion, many places of *Bithynia*, the *Helle-spont*, and both the *Phrygiæ* were grievously distressed. And this Disaster a long time, and sorely afflicted the world; but yet continued not in the same fury, but by degrees grew less, and languished, till at length it wholly ceased.

37. *Nicéphorus* out of other Authors writes, that it continued six Months, and that in a manner without intermission. That it reached Alexandria, but especially afflicted Antioch, the choicest rarities of which it broke or spoiled; for besides the Countries mentioned by *Evagrius*, it invaded the greatest part of the East; and

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Lib. I. c. 46.

Sec. 5. spired not many Regions of the West. Heads, that the People of *Constantinople* not daring to stay in the City, for fear of the fall of Houles, continued, together with the Emperor, and *Proclus* their Patriarch, in the Field, wholly intent upon Prayer for the Removal of so heavy a Judgment; which, at last, was stayed, when a Boy, being taken up into the Air, and let down again the same way, told them of an Hymn he had heard sung by Angels; which they then applied themselves to sing. That this Hymn was afterward constantly used in the Church, being enjoyed by an Edict to be sung throughout the Empire: and the *Greeks*, in their Mnology, retained the memory of the thing; besides what is written of it by eminent persons living at that time. But *Theodosius*, when he was delivered from the danger of the Earthquake, presently let himself to repair the Walls of *Constantinople*; and *Anthemius*, in the space of sixty days, did indeed, raise the greater part of them which stood upon dry Ground; and, by extending the *Pomerium*, did very much enlarge the City. But *Cyrus*, the *Prefect* of it, restored all that was fallen, and what ever else had by Age been broken; and raising it to a sublime height, put the City, as it were, into a new Form and Aspect. In so much, that when, on a time, *Theodosius*, in the *Hippodrome*, was beholding an Horse-Race, the Citizens, much taken with the Structure raised by *Cyrus*, cried out; *Constantius built, and Cyrus restored*. The Emperor was enraged thereat; and, under pretence that he was addicted to the Superstition of the *Greeks*, deprived him of his Dignity, and put to sale his whole Estate. The man, much dejected, betook himself to a Church, though lately of the Pagan Profession; and was made the Christian Bishop of *Smyrna*.

38. But *Theodorus* his humour now standing for the deposing of persons from their Dignities, was at this time hurried to far, by tricks of certain persons, as *Nicephorus* tells the story, that it reached his Sister *Pulcheria*; her that had been his great Affixer at the Helm, and had kept the Government upon his shoulders. The matter was first contrived by *Chrysaphius* the Eunuch, and great Favourite of the Emperor: who, being displeased that *Flavianus* was made Patriarch in the room of *Proclus*, lately deceased, and perceiving he could not remove him so long as she was in power; first provoked *Eudokia*, his Wife, against her, knowing the Jealousies and Emulations of Women: To set them by the ears, he perswaded her to remove from *Pulcheria* the Steward of her House, who managed all her matters; and the tried all means with her Husband to do it, but without success; he was, as yet, so sensible of the merits of his Sister. But at length he prevailed that *Flavianus* should be required to make her a Deaconess; it being the custom, as for Great Men to be drawn by force to Bishopricks, so for Eminent Ladies to be chosen no otherwise to that Office or Employment. The Patriarch knew not how to shift it off; but, promising to discharge his Duty, gave her secret Intelligence of it by Letter, with advice not to come to him, lest he should be forced to do that which he himself could not but dislike. She herupon, delivering her Steward to *Eudokia*, departed to the *Hedonum*, there to live a private and quiet Life: and the Conspirators perceiving that *Flavianus* had revealed their design, turned all their malice against him, and *Eudokia* now got the Power for a certain time. But there goes another report, of an occasion given by *Pulcheria* herself, to her Brother, to alienate his Affections from her; though the same fine story, in a manner, be told of other careless Princesses.

29. She observing how he was wont, out of lazyness, to sign all Papers that were presented to him without reading, thought to convince him of his folly, and cure him of that Distemper, by a Jest. She drew a Writing, whereby he should make Sale to her of *Eudocias*, his Empress; and this being offered to him, he as readily subscribed as the rest. This done, when the Empress came to her she kept her for some time, and would not let her go when he sent for her; alleging that she had bought her, and for that produced the Emperor's Hand; who was offended with the freedom, as Princes usually are in like Cases; and was urged and inflamed by his Wife, who, grudging her her power, took this opportunity to put her out of his good Opinion and it both together. And she was the more moved to flatter him, and ruin her, because the her self had of late incurred his Jealousie and Displeasure. There had been presented, you must know, to *Thweodius* an Apple of wonderful bigness, as a Rarity; and this Apple, out of kindness, he bestowed upon his Wife. She had a Favourite called *Pandion*, with whom she was familiar upon the account of Learning, and that, as was thought and suspected by some, more than the ought to be. To him she gave it; and he knowing nothing whence it came, made a Present of it to the Emperor, as some means to gain his Favour; who, receiving

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*Thyagion San-  
ctus Deus, San-  
ctus Fortis, San-  
ctus Immortalis,  
regnare nostri,  
vide Baron. ad  
h. An.*

### CHAP. III.

**Sec. 5.** ceiving it now, asked his Wife, what was become of the Apple? She affirmed, he had eaten it; and then, by producing it, he convicted her of Untruth and Unfaithfulness; and for this reason he was long alienated from her in his mind, and *Paulinus* he commanded to be put to death. But thus was *Pulchris*, after that, well nigh forty Years, she had steered the Realm with great prudence and industry (for this was the thirty ninth of her Brother's Reign) removed to a private Life, to the great detriment, both of Church and State.

40. Yet, by that care *Theodosius*, this Year, took for the cautious enacting of the Laws, one would have judged him more circumspect and wary in a matter of such consequence as depoling of his Sister. For, being convinced, it seems, of the great Inconvenience which Precipitancy in him (who had the Legislative Power) brought to the Empire, probably, by some Remonstrance, or Petition, made by the Senate, he directed back to it a Relscript, or Oration, to give Remedy in that very Affair.

Yet he provides against Precipitancy in State Affairs.

We think it, faith he, an Humane thing, that if, for the time to come, any necessary matter should happen, either in a publick or private Cause which may require a general Form (or Order) which is not infered in the ancient Laws, it be handled, or debated, before; as well by the Nobles of our Palace (*Proceres*) as by your most Glorious Assembly, *Conscripti Fathers*; and if it shall please all the Judges and you, then, that it be written down, and after that, in a full Assembly, it be read over; and if all consent to it, that then it be recited in our Sacred Constitution (*Naminis iussu*) that the Consent of all together may be established by the Authority of our Serenity. Know ye therefore, *Conscripti Fathers*, that, for the future, no Law shall be promulged by our Clemency, except the aforesaid Form be observed. For, we well know, that what shall be ordained with your Advice, will redound to the happiness of our Empire, and to our Glory. This Solemnity he would have observed, for the more certainty in making Laws; and *Fulianian* put the Constitution into his Code, though we know not whether always he observed it in the making of his numerous Edicts, seeing that, as he alleges in his own behalf, for repealing any thing the Ancients had done in such cases, by the old Law, called *Lux Regia*, all Right, and all Power of the *Roman* People, was transfarled into that of the Emperor.

transmitted into that or the other of the two Successors made this Year by *Theodosius*, but two or three by *Valentinian* in the West. — There was ever arising some new Accident, which afforded new Questions concerning Testaments, and especially, betwixt Man and Wife; in the several Laws having, as we have formerly said, prohibited such Bequests, for reasons which then seemed very urgent. But, as *Legislators*, in making and altering Laws, must receive their Directions from Matters of Fact, as this Emperor expresseth it; a change of Customs and Manners must consequently produce a change of Ordinances. And therefore, now, at the desire of *Leonius*, one to whom he gives the Title of *Speiabilis*; and betwixt whom and his Wife *Faucunda*, so much Affection there was, that they desired to have the *Fus Liberorum* — or to leave each other their Heir, as it should happen; He added this to former Constitutions; that Married Persons, if they had no Sons, might leave each other their Heirs; whether they would do it by one Instrument alone, or else mutually make their Wills. Provided, that if any had just Ground from the Law, to bring the Complaint of an *Unjusticious Testament*, such Action shall lie. “ And, because many Accidents happened about Witnesses of Testaments, and sometimes Witnesses could not be had; from a Petition of one *Pelagia* (an Illustrious Woman, she files her) he took occasion to ordain something more in such Cases. One *Micea*, another Lady of the same Quality, designed to leave her Heir: but, not having any fully qualified to witness her Will, yet wrote it with her own hand before she expired, and delivered it to *Casarius*, a *Tribune* and *Notary* (*Vir Speiabilis*, he terms him) being her Brother’s Son; one who, by reason of his Nobility, and nearness in Blood, the judged would be very faithful to her. And he did not at all betray his Trust, but published the Will with the same honest meaning he received it. But *Pelagia* was so modest, as, scrupling her Right, she would not meddle as Heir, except the Emperor would approve of the Justice of her Cause. Upon consideration of the whole matter, he now confirmed what *Micea* had done, who could “ not have any other Witnesses of her Will than her Brother’s Son, and her own Writing. He declared her therefore Heir for so much of the Estate as the present Writing did name her. “

**Valentinian** or  
dains some-  
thing new a-  
bout Testa-  
ments.

42. And that he might not deny the benefit of this Statute to Mankind, he now decreed, that it should remain as standing Law ; that If any should make choice "

A. D.  
4 4 6.

*L. 8. de Legibus  
Cod. Just. lib. 3.  
tit. 14. Dist. 16.  
Cal. Nov.*

Cum enim lege  
antiqua quæ  
Regia nuncupa-  
batur omne Jus  
omnisque Pote-  
stas Populi Ro-  
mani in Impera-  
toriam transla-  
ta sunt potesta-  
tem. Li de Viteri  
Jure evocanda  
Cod. Jus. lib. 1.  
tit. 37.

Novel. Valenti:  
niani 4. S. 16  
Dat. 12, Cal:  
Nov:

Ejufd. Nro. 5. 2.  
Dat. 7. Cal. Jant.

Sect. 5. to write his Will with his own hand, he should have free liberty to do it; for "as much as in many cases it happeneth, that the opportunity and number of Wit-  
nesses are wanting, and cannot be had by dying persons." Thus, from these Novel Constitutions we understand the particular occasions for making of the said Laws; whereas the Compilers of the Codes, studying Brevity, cut off all such Prefaces, and have left us the bare Sanctions; a thing indeed which hath prevented swilling of Books: but I know not whether it have saved the Student labour, or made him more, the History of the Case laid down in such Prefaces bringing extraordinary great light to the understanding of the Laws, as the Conclusions inform us of the manner of the Emperor's Style, or of writing to his Ministers. Being now inclined generally to give relief, the Report of *Albinus*, the *Præfectus Prætorio* and *Patrician*, found good acceptance with him in behalf of his own Office, and the *Numerarii* belonging to him; inasmuch, that he implicitly chides him for not making the Suggestion sooner: By the Medicine, we may know the Disease; for he declares, that Although, before his full time expired, any belonging to the Office of the *Præfect* shall, by virtue of his Testimony, obtain any honest Mission, either out of love to quiet, or for some other Employment, he shall not for it be molested. Neither shall the *Numerarii*, who were Auditors of publick Accounts, be subject to any Discussions or Questions after five Years time expired; within which time he judges that truth, although latent, may be discovered; especially, the condition of no Man being to be so grievous, as to have no end of his sollicitude and fear. Further, he takes care for preventing the molesting and suing of these Officials for Expenses about Payment of publick Moneys, when the Creditors were in fault; who would put it often to other Uses, and ought to be punished with a forfeiture of it. This Indulgence he thinks fit to confer on them, for preservation, he saith, of their Safety and Fortunes; and allows, that they have *Mensores* assigned them, for their peaceable taking up of Quarters, of which of late they had been deprived. Thus we see how the case alters. How many Laws have we formerly met with, to restrain the Injustice and Violence of Officials? Now they have need to be protected against those they have formerly oppressed. And, of the reality of this need, the Emperor was so well possessed, that he orders the *Præfect*, to whom he gives the Attribute of Parent of the *Agriculture* and *Industries*, and *Præcelsa Magnificentia* tunc, to publish this most just Law by his own Edicts; that it may appear to all Men, how in his time no other thing is to be granted but what is decent to be obtained.

43. After this tedious Year, we arrive at length at the CCCCXLVII of our Lord; wherein were *Consuls Aepius*, or *Calpurnius*, and *Aradaburinus*, or *Aradaburinus*. Thus we find to present us with almost as little matter as that gave us occasion to be large. For, what we then said concerning the Invasion of *Attila* is to be extended both to this Year, and the following; his outrageous Acts, and the buying him off having taken up considerable time. From the *Panegyric*, written by *Sidonius Apollinaris*, to *Anthemius*, afterwards Emperor of the West, it appears, that the said *Anthemius* fell upon the *Huns* as they roved through *Dacia*; that, not far from *Sardica*, he drove them up into a narrow compass, several times worsted them; and, keeping exact Discipline in his Army, notwithstanding it wanted both Meat and Drink, engaged in a bloody Battle; wherein, though his Colleague played false, and thereby the Fortune of the Day was endangered, yet failed he not in Courage; but, by his vehement importunity, got his flying Men to rally; and renewing the Fight, though the Enemy, after that he was put to the worst, came up again; yet he defeated him, and granted him Peace, on condition that he killed the Traitor; who, accordingly, as he expresseth it, fell a Sacrifice to Justice, by a Foreign Sword. Now, for as much as *Marcellinus* writes of *Arasius*, or *Arasius*, the *Magister Militum*, his being slain by *Attila*, in *Dacia Ripensis*, though he fought well, and had killed many of the Enemies, *Sigonius* will have him to have been the Colleague of *Anthemius*, and the Traitor mentioned, though this Expedition fell out twenty Years before *Anthemius* came to be Emperor; and so, he must have been a long time in the greatest Actions. And *Marcellinus* writes, that *Attila*, after the death of the *Magister Militum*, continued his Depredations as far as *Thermopolis*. If we follow *Sigonius* in his opinion, we must add, that some other Accident happened after the Victory got by *Anthemius*, which obliged the Emperor to purchase Peace of *Attila*. *Forandes* making mention of him that was killed, calls him *Arasius*, and *Magister Militum* of *Mæsa*; and adds that fighting valiantly near *Marcianopolis*, his Horse fell under him; and when, in that condition, he ceased not to fight, he was over-powered and slain.

44. The

A. D.  
446.Nov. 46. Pro-  
testantiam  
Theodosianus  
D. 1. 1. 1. 1.  
Jan.

Sect. 5. 44. The same Author, in another place, cites a passage out of *Priscus* his History, now lost, how the Historian himself was sent on an Embassy, to *Attila*, by *Theodosius* the Younger; and produced for it his own words. Passing over, saith he, the great Rivers of *Typha*, *Tibisa* and *Dricea*, we came to that place where *Pidicula* (some read it also *Pidigola*) the most valiant of the *Goths*, fell by the Wiles of the *Sarmates*. Thence we passed to a Village not far distant, in which *Attila* then made his Abode; a Village, I say, like a most large City: where we found wooden Walls made of vast Boards, so artificially joyned together, that they seemed to be all of one piece, and could scarcely be discerned to be several by one that intently beheld them. You might have seen the Rooms very large, and *Porticusses* furnished with all neatness. The Court of the House it self was hung round to a large compass; so that it resembled a King's Palace. This was the Seat of King *Attila*, the Lord of all *Barbarians*; and such like Lodging he preferred before such Cities as he took. He adds, that he was the Son of *Munduccus*, and had two Brothers, *Oskar* and *Ros*, who reigned over the *Huns*, although not all, before *Attila*. Whether this Embassy was undertaken upon this very occasion we cannot certainly say, but probably it might; though, had it not been for his preferring that Village before the Cities he had taken, we should have thought, from the names of the Rivers, the place where they found him, not to have been within the Empire.

45. In these uncertainties, where we have no full direction, *Sigonius* makes another probable guess, from another passage he found in that Epistle of King *Theodosius* to the Senate, formerly mentioned by us; wherein he extols the Virtues of *Cassiodorus*, his Chancellor: that, at this time, *Valentinian*, left he alone should be exposed to the lust and fury of *Attila*, after the Peace made by his Uncle, sent his Ambassadors also, to take up the Quarrel. For, *Theodosius* having told the Fathers how *Cassiodorus*, the Father (not the Grandfather, as *Sigonius* mistakes) of *Cassiodorus* Senator his Chancellor, laudably bore the Dignity of *Tribune* and *Notary*, under *Valentinian*: adds, that As persons are wont to make choice of such as are like themselves in disposition, he was, with great dearth, associated with *Attilus*, in Acts tending to the Assistance of the State; whose Advice then the Emperor (*Rerum Dominus*, he calls him) in consideration of his Wisdom and glorious Labours in the Commonwealth, in all his Councils, followed. He is (and that not to no purpose) appointed, together with *Carpilius*, the Son of *Attilus*, to go Ambassador to *Attila*. He beheld him without trembling, whom the Empire feared. Being backed with Authority, he despised that terrible and threatening Countenance; neither did he forbear to contradict him, even in his talk; who, carried away with I know not what fury, seemed to aim at the Sovereignty of the World. He found the King insolent and high, but he left him pacified; and so refuted his scandalous Speeches, that he fought to be reconciled; whose interest it was not to have Peace with that most opulent Kingdom. His Constancy gave relief to the fearing Party; and they were believed not to be weak and inconsiderable, who seemed to be armed with such Ambassadors. He brought back Peace, which was not expected; whose Embassy, what it produced, thence did appear, that it was as acceptably received, as it was desired it should be. As for the Ambassador, he adds, that he had presently Honour conferred upon him, and the Emperor offered him, as a just Master, a Revenue for his pains. But, he being most rich in his own Native Moderation, having a Vacant Dignity in way of Reward, departed into the pleasant Country of the *Breuii*. He could not deny him his desired rest, who had rendered him secure from a Savage Enemy; but was sorrowful to dismiss him, whom he knew to be one of his most useful Servants.

46. That *Cassiodorus* was now sent upon this Errand, all things put together, and considered, render most probable, whether we respect Persons or Times. But of any Embassy returned by *Attila*, to either Emperor, we hear nothing: he was not so full of Courtship. But this we know, that, toward the latter part of the Year, *Valentinian* received a Message from his Uncle and Father in Law, in a Missive directed from *Theodosius*, to the Lord *Valentinian*, famous Conqueror and Triumpher, over *Augustus*, his Son; and penned according to this form. After that we had reduced into the Body of one Code both the Constitutions of former Princes and our own, our Piety shortly after published another Law, which should give Force and Authority to the Code already made; and command that, in Judicature, such Laws should not prevail as were not produced out of it. But, in case any Law was afterward made by either of us, that which was constituted in general should

A. D.  
447.  
Forandes, de  
Rebus Gothicis.  
c. 34. 36. Inter  
Historiam Go-  
thorum a Gre-  
cibus.Cassiodorus, Ver.  
lib. 1. c. 4.Theodosius  
Theodosius

Sect. 5.

should then also obtain force, and be valid in the Kingdom of the other Prince, if it were sent unto him by divers Writings. Therefore, for as much as for several emergent Causes, the necessity of matters arising hath put us, in this Interval, upon making other Laws, which, by reason of our being diverted by perpetual business, could not be brought to the Knowledge of thy (our) Majesty; we have thought it necessary, now at length, to transmit them all to thy Serenity, with the Subscription (or Subnotation) of our Majesty; that by that means they may be known solemnly to the Subjects, Provinces and People, and the force of them may begin to be observed also in the Western Parts. And such Suits or Causes as are begun, but not terminated at the time of their Publication, we will have ended, according to their Tenor. But such as are already decided by definitive Sentence, or by Agreement made betwixt the Parties, shall in no wife be again revived. Therefore, Most Sacred Lord, Venerable Son, (Augustus) cause them to be divulged to all Men; and also, whatsoever your Serenity hath in that time promulgated in a general manner, to be sent, in like manner, back, with the Adumbration of thine own hand, to be heeded and observed by the Provincials, and all the Eastern People. Given, the first of October, at Constantinople, Ardabures being Consul, and he who shall be made known to be so.

47. By the Date of this Letter for Confirmation of Theodosius his Novel Constitutions, we may easily believe there was no very frequent Intercourse betwixt Constantinople and Ravenna; and a wonder it is, if the Text be not corrupted, that at the beginning of October, they in the East should hear nothing of *Aspius* being Consul. We may take notice also, that though Princes speak in words denoting the Plural Number as to themselves; as *Nos, Nos, Nos*, and the like: yet, though to their Equals, they used still the old Expressions of *Tu* and *Tuus*. But as they at Constantinople took no great notice who was Consul in the West, they at Ravenna or Rome were something even with them, being as careles who in the East had obtained that now decrepitate Honour. For we have two Constitutions of Valentinian, dated on the twenty fifth of April, wherein *Calpius* is only mentioned. He had been informed by *Florianus* the Prefect, or rather, *Comes Largitionum*, how several Merchants or Traffickers managed their Trade clandestinely, in Villages, holes and private places; in so much that they quitted the great and famous Cities, with design to defraud him of the usual Impost, upon Merchandize, or the *Auraria Functio*. By a Rescript, he ordered him to redress this mischief; and to take care that such as had left the Cities, and disposed themselves through meaner Towns, Ports, and private parts of the Country, should be apprehended, and constrained to pay the several Dues. The same Person had further let him understand, how the *Palatines*, or Officers belonging to the *Largitiones*, were so bold as, before their time expired, and without leave, to forsake the Service, to the further hindrance of his Revenue. To give some stop to this, another Rescript was (as now we have it) directed to him, requiring him to take a course, that All such who, before their time was out, and without Testimony, or leave obtained from the Treasurer (whom he calls their *Præful*) had betaken themselves to Ecclesiastical Offices, or other Employments, or *Militia*, should be deprived of the name of Clerks, and the privilege of the Superior Girdle (so he words it) and returned back to the *Palatine* Office and *Militia*, which they had contumaciously deserted, except they had been long out of that Service. That this should be prevented for the future, and the Judges of Provinces quickened up to be more diligent, as to the levying of the ordinary Income.

48. But, about the beginning of June, the curiosity of the Romans concerning the Eastern Consul, we find, was satisfied from another Constitution; in the Date of which, *Ardabures* is joined with *Calpius*. Great Complaints were made to Valentinian of the ill usage of *Liberti*, or Freed Men, by reason of that great Indulgence given by the Laws to the Heirs of their Lords, by whom they had been manumitted; under pretence of Ingratitude, they would reduce them again to their former slavery, sometimes for slight Causes; wherein, as they abused that favour, the Laws had given them, to the *Liberti* conceiving themselves not so much obliged to them as to their own Patrons, and provoked by their ill usage, as happens in such Cases where Offences are mutual, returned such things as they accounted affronts; and so the matter arose to a publick mischief. Valentinian having it represented to him as really such, seriously considered how to accommodate it; and at length determined the Affair in a Rescript to *Abinius*, now the second time *Præfectus Prætorio et Partibus*. The Decision was this, that No *Liberti*, if they were made Roman Citizens, upon occasion of Ingratitude, conceived from some

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Valentinian decides the Controversie concerning Freed Men and the Heirs of their Patrons.

matter of pretended injury, should, upon that account, be again reduced into Slavery; but such Heir, whether a Son or an *Extraneus*, should only have the Action of Injury to lye against him. But, besides that agreeable Demour which was due from Freed Men to their Patrons and their Heirs, the Law was also strict in case of Succession and Inheritance of their Estates. Which seeming at this time also too severe, Valentinian, in the same Rescript, further ordered, that such *Zibertus* or *Liberti*, if he or she had Son or Sons, they should, if their Parent pleased, fully succeed them in their Estates. If they had no Sons, and desired to make a Will, they should be bound to leave one third part of their Estates to the Sons or Nephews (descending from Males) of their Manumissors; but as to such as descended from Females, they should be bound to nothing, except, out of their own good will and kindness to them, they would give them any thing out of the two parts remaining. But, in case a *Libertus* had neither Sons nor Grandsons of his own; but possibly, Father or Mother, Brother or Sister; he might leave these Relations one half of his Estate, and the other Moiety might go to the Heir of his Patron, provided his Relations were Roman Citizens. Now, if a *Libertus*, and Roman Citizen, should die in the lifetime of the Manumissor, and make a Testament without his consent, such Testament should be of no force, because the Authority due to Patrons was to be encouraged. And, if a Freed Man or Freed Woman should bear Witness, in any Cause whatsoever, against the Sons and Grandsons, such Testimony should in no wife be received, and the Witnesses punished for so doing. These Laws, and another to be spoken of in another place, bear Date from Rome, though we hear nothing of Valentinian his residing there from other Monuments.

49. For the Year CCCCXLVIII, and the one and fortieth of Theodosius, Zeno was named Consul at Constantinople, and Rufus *Prætextatus Posthimanus* had that Honour conferred on him at Rome. Thence Valentinian returned, at the beginning of this Year, to Ravenna; where we find him upon a good Account on the Nones, or seventh of May. For, he was sought, as, having received, in this latter end of the preceding Year, Letters from Theodosius, desiring him to confirm and establish his Novel Constitutions in the Western Parts; he now did it by an Edict directed to *Abinius*, with the same Titles as formerly, in this manner of words. The most Glorious of Princes, the Lord Theodosius, Father of my Clemency, hath sent some Laws to us which were made after his Code (*summius*) confirmed, and ordained by repeated Constitutions; *Abinius*, most dear Father of the Augusti. Thine illustrious and very high Magnificence following the tenour of our Letters, shall cause the said Laws, together with the aforesaid venerable Commandment with them (which will put all out of doubt) to be made known to all the Worlds, as well by own Edicts, as those of the Provincial Judges, that as both the Persons are governed by Individual Ordinances, so they may be ruled by the same Laws. Given at Ravenna, on the Nones of May. Of this Year we are further very scant of Intelligence. But we are told of the *Americians* being very tumultuous, & spurning against the Roman Government. And that *Ætius*, being elsewhere employed, procured *Eocharich*, King of the *Allemans*, to fall upon, and chastize them.

50. And so we proceed to the CCCCXLIX Year of our Saviour; wherein, for the East, *Protopogenes*; and for the West, *Asterius*, were named Consuls. And we have little more to tell the Reader which happened in this Year. Yet, about this time died *Galla Placidia*, the Mother of Valentinian; a Lady which, however sometimes she shewed of what Sex she was; yet, consider her all together, she was a Woman of great Prudence, tosted to and fro in the World, and tried by various Turns of Providence. She was accompanied into another World by *Marina*, the Daughter of *Aradius*, and younger Sister of Theodosius; who, together with her, thrived under the good Government of *Pulcheria*; with whom, it is said, she lived in constant Virginity; and else, we have nothing of her, except that there was an House called by her Name, which possibly, she at first possessed; and afterward it became one of those Houses, or Palaces, of the Emperor in Constantinople, (as in the Days of *Justinian*) each of which had its *Procurator*, to manage the Lands belonging to it. Theodosius his Quæstor was idle for this Year, and the rest he lived; he, after the Confirmation of his Novels, either resolving against the multiplying of Laws, or having no occasion to add to them. But, one which he made twenty five Years before, was now much commended, and confirmed in the West by his Son in Law. By it he provided for the Quiet of Mankind; which being disturbed by nothing more than by Suits and Controversies, he took order for the

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Confirms the Novels of Valentinian.

Placidia dies.

And Marina.

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Sect. 5.

him. He called him to him, and demanding who he was; He told him, he was the Domestick of *Aspar*, which, when he heard, considering what he had seen the Eagle do, and how great a Man *Aspar* was at *Constantinople*, he thought it fit not to kill him, which if he did, what he judged was prefiged could not come to pass, but gave him his liberty, making him swear, that he would not take Arms against the *Vandals*; and though after the death of *Theodosius* he was promoted to the Empire, yet shewing himself in all other respects an excellent Prince, he found the Affairs of *Africa* as he left them. *Pomponius Latius* to this Relation of *Procopius* adds another, That being born of obscure Parents, and having served first in *Lycia*, falling into a sickness, he was kindly entertained in the House of *Tatianus* and *Julius*, two Brothers, where recovering of his Disease, he went out afterward with them to hunt. The heat of the day much afflicting him, they rested for some time in the Shade, where *Tatianus*, first looking up, saw an Eagle in the Air hover over him, at which astonished, he raised his Brother, and shewed him the sight: when the Soldier was awake they told him the thing, and therewith foretelling his high fortune, furnished him with two hundred pieces of Silver at his departure. This Story which seems framed out of the other, possibly gained more belief, because it is further said, that when *Martian* came to be Emperor, he forgot not the Hospitality of these Men; but fending for them, preferred *Tatianus* to the Government of *Constantinople*, and *Julius*, his Brother, to that of *Alyricum*.

Persons at Constantinople reduced to office.

55. To be sure *Martian* was now elected Emperor, and being well approved of by the People, easily afterward obtain'd the consent of *Valentinian*, as well upon the account of his own worth, as the choice of *Pulcheria*. How he advanced that *Tatianus* and his Brother we know not; but at the end of the Year we find an Edict directed by him from *Constantinople* to *Tatianus*, by the Title of *Præfectus Prætorio*, as the Copy now hath it; but the Subject of it indeed relates to the *Prætors* of that City. The Reader may remember how many *Prætors* were in *Constantinople*, according to the various fancies of several Princes, sometimes four, five, eight; as in *Rome* in old times were eighteen. Now *Martian* thought fit to reduce the Number to three; and those he commanded yearly to be chosen at the discretion of the Senate, out of such as lived in Town, and not in the Provinces, who were not to be compelled, if unwilling, to do certain things, but left to a spontaneous liberality. At his first coming to the Government he received great Complaints how those that were Plaintiffs, were wont to draw the Defendants out of their own Countries, and begin their Actions, Civil, or Criminal, either before the Emperor himself, or his great Ministers. To obviate this practice, he published an Edict whereby he commanded, That all persons, except in necessary cases, should be convened in the Provinces where they inhabited, according to the old custom and Axiom; and this he would have extend, as well to Military, as other Persons. About the same time he was put in mind by *Palladius*, the *Præfectus Prætorio* of the *East*, how seasonable and acceptable a thing, now at the beginning of his Reign, it would be, to remit the Arrears of Tributes; the exaction of which was very grievous to the People.

Marrian remits Arrears of Tributes, as a notable Edict.

56. To this information he answered by a Rescript directed to him, as also to *Hermogenes* the *Comes Largitionum*, *Gennadius* the *Comes Reipublice*, and *Maximianus* the *Comes* and *Præpositus Cubiculi*, that it was his very care to provide for the emolument and ease of Mankind. That day and night he was solicitous so to order matters, that all Men living under his Empire might by his Arms be protected against hostile violence, and in peace enjoy liberty and security. Therefore he could not but admire the laudable suggestion of his *Highness*, who amongst several virtues, for which he was eminent, was also remarkable for his Humanity. He approves of his advice, and therefore from the beginning of the sixth Indiction, to the end of the fifteenth, lately past, he commands the exaction of Arrears to cease, whether belonging to the Patrimony, the Temples, whether of Civil or Fiscal Right, whether due in Gold or Silver, in Specie Metals, or any other Title of Collations remaining in the publick Tables; whether they appertained to the *Arca* or Chest of him the *Præfectus*, to the *Treasury*, the *Ærarium*, the *Curia*, the *R. s. privata*, or the *Works* of the famous City of *Constantinople*, they shall all be remitted to the *Collators*, *Curiales*, or *Provincials*, and to others obnoxious to them. And this his liberality shall hold good notwithstanding the matter were past into private Contract, or a publick Debt, so as the Officers shall exact nothing, though they had engaged for the Debtors, or pretended to have laid

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out Money for them. He also remits what was behind of the *Senatorial Follis*. Provided this Pardon and Indulgence do not extend to any *Affignations* made from the fifth to the first Indiction, or later times, nor to Dues arising from Navigation, or the price of Materials, given, granted, translated and exchanged for Money, or what was due from the *Arca* of *Constantinople*. Or if any thing consisting in Gold, Specie or Materials, was assigned to the publick Works of Cities, and as yet was not collected. In conclusion, he would have, as in reason, all persons concerned in this his Munificence, so far to be sensible of it, as to pay their Dues for the time to come with more care and fidelity.

57. In the West, this Year Clouds began to arise, and a terrible storm was gathering, which in that following, fell down with violence into the Western Provinces: for now *Attila* prepared to invade, and *Valentinian* to defend them in that manner, as we shall afterwards declare. And to usher in these mischiefs, a great famine this Year seized upon *Italy*, which so far prevailed, as Parents sold their Children to keep from starving, of which we shall hear in the following year expressly, wherein we shall find some way proposed for their Redemption. But in *Italy* nothing was so considerable as *Rome* itself, and the scarcity of provisions seems there to have begun early, as we may guess from an Edict directed to *Epitimanus* the *Præfectus* of it at the latter end of *April*. The *Præfectus* had made known to *Valentinian* the inconvenience the City lay under in this respect, because the *Navicularii* had forsaken their Employment, and deserted their Charge; in answer to which, by his Rescript, he gave in command to reduce all persons obnoxious by the Laws, without admitting any privilege or excuse, that if they died without Heirs, their Estates should belong to such as exercised the Function. That they should not build any new Ship, nor repair any so as to reduce it within the capacity of containing forty *Capes*. And besides, he gave orders for the regulating of private Vessels, and those of lesser Burthen, that the publick service might be carried on.

Novel. Valentinian, 36. text. Theodosius, Dec. 8. Cal. Maii Rom.

58. The following Year was characterized by the Consulship of the new Emperor *Martian*, who had *Adolphus* for his Colleague; and it was famous for greater things by far, than of late had happened. The first Month had not quite passed over, when *Valentinian* being made sensible of the heavy inconveniences produced by the Famine, directed his Edict to *Æsius* the Patrician, wherein taking notice how Parents, to save their lives, had been compelled to sell their Children, he thought fit to abrogate all such servitude, and declare such Children according to the circumstances of their Birth, to be free; provided, that where the Buyer had paid five *Solidi*, for such a person he should receive six; twelve, if ten; and so proportionably. But if any person had sold such as were of free or ingenuous condition to Barbarous Nations, or into Transmarine Parts, he should incur a Fine of six Ounces of Gold: of such value ever was liberty, which *Valentinian* endeavoured to preserve by this Edict the most elegant and pithy of any we now meet with. There are two others that bear date on the same day, whereof one takes off some inconveniences arising from the late Law concerning the prescription of thirty years, so as the *Coloni*, or Villains who had found tricks to evade any such constraint by flying from one place and Master to another, might not thereby defraud their true owners. This is directed to *Firminus* the *Præfectus Prætorio*, and so is another, whereby *Valentinian* takes off the rigor of the former Laws, even against the Governors of Provinces. We have seen how during the time of their Administration, to prevent mischiefs, which by the terror of their places and power they might procure, they could not buy nor sell, nor receive any thing in Gift. Laws are Medicines of State, and must be applied according to the Diseases of the Times. Former Princes found good reason from the practices of their Officers to lay such Restraint upon them, and now there were emergencies of a contrary nature, which persuaded him to mitigate their severity.

Persons in place permitted to purchase.

59. And so he doth by this Constitution, whereby he makes it lawful for the *Administrators* or *Militantes* (those in Office, Place and Power) to purchase, exchange, or receive by way and title of Donation. Provided, that these be not procured or brought about by any fraud, terror or compulsion; and the purchaser pay down his Money, so that the Bargain be driven on, and completed *bona fide*, by intervention of Writings or Deeds proper to the several occasions. If the Buyer fall in these points, he shall forfeit the price to the seller, who shall receive back again the thing or estate so fraudulently purchased. If the seller be troublesome, and pretend fraud or violence where none hath been, he shall for

Novel. Valentinian, 36. text.

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Sect. 5. feir the price to the Buyer. And because, in the late Wars and Disturbances, great Disorders had happened, in reference to Possessions, and great scarcity there was of persons skilled in the Law: so that, in some Provinces, neither Advocates nor Judges were to be had; and scarcely any learned man in that Profession was to be found; he took care for confirming the Alienations made by the Curiales amongst themselves, though without the Interposition of a Decree; and provided that such should be good for the time to come, if duly entered and attested by their Consulares. And, as for Advocates; that, if a Curialis have a desire to betake himself to that Employment, he may do it, if he leave another in his place to discharge his duty toward the Corporation. But, such was the scarcity of Advocates in this Age, that there was a necessity of having them perpetual in the Provinces, as Valentinian affirms; whereas formerly the Romans found cause to be so jealous both of them and Judges, as to suffer neither sort to act but for a time. The Emperor, in this Edict, makes mention of Marich, and derives the mischief from his first Invasion of Italy; but he had shortly occasion to forget him and his Actions, being struck with the Report, how Attila now was falling into the Western Provinces; which he did like a Thunder-bolt: and so behaved himself, as delighting both to be, and to be called, The Scourge of God.

Nam hoc necessitas fecit perpetuare deos Provincialibus Advocatis.

Paulus Diaconus Attila. Vnde Subtilis Exord. c. lxxv. Sigismon. lib. 13. Carolus, ad h. de.

Attila pierces into Germany.

60. Having had no good success in the East, he was advised by his best Friends, to leave off these formerly in vain attempted Conquests, and try others in other Countries; as in Germany, that thence he might pass into Gall, Spain and Italy; where Valentinian reigned, and the Empire was divided, and possessed by divers Nations. They doubted not, but that, without much difficulty, he might become a Sharer in it; and he resolved to follow their Advice, and to order his Affairs with as much Foresight and Cunning as possible. With Attilus, it seems, he tampered; the report going, that by his encouragement it was that he cast in his Head to ruin the Empire. Theodorich, King of the Goths in Gall, he endeavoured to get to his Party; encouraging him with hopes to share the Provinces betwixt them. To Valentinian himself he sent his Ambassadors; and offered his Service for chastising the Goths, and restoring the Roman Interest in Gall and Spain. And, having got together a vast Army of such Northern Nations as, by the power, or terror of his Arms, he had under Obedience, he marched out of Symbia, and came into Germany in the violence of Winter; where he resolved to stay no longer than till he could draw the Nations thereof to a Confederacy with him. Some he allured by expectation of Booty; in others he excited or increased an Averseness to the Emperor: some were terrified by the numbers and power of his Forces; and it was not difficult to disswade them all from joining with the Romans; having lately found, that the Franks, endeavouring to hinder the Vandals from entering Gall, had been defeated by them. With him then joined the Quadi, Suevi, Marcomanni, Heruli, Turcilingi, or Rugi, Burgundiones, Thuringi, Bructeri, the Saxons, those inveterate Enemies of the Galls; and such Franks as still retained their Abode in Germany. With them he passed the Rhine, and brake through the Roman Pale.

## SECT.

## SECT. VI.

The Sixth Step to the Ruin of the Empire in the West.  
From the Invasion of the Western Provinces by Attila, to the Death of Valentinian the Third.

The space of four Years.

Attila with seven hundred thousand Men invades the Western Empire.

UPON a Muster are said to have been found, to the number of seven hundred thousand Men, of such as, either for fear of Attila, or desire of enriching themselves, had given their Names to this Expedition. Here was Andarich, the most valiant King of the Gepide; and Wamlir, King of the Ostrogots, more Noble than the King he served, in the Opinion of the Historian. Of the Nations but now mentioned, Sidonius Apollinaris enlargeth the Catalogue, adding the Gelonus to the Rugus, the Scot to the Burgundians, and the Belonotus, Nervus and Bassarna to the rest. But though Attila, by these vast numbers, terrified the World, and put all the Parts of Gall into a panick fear; yet there wanted not some answerable Conduct and Resolution in those that were concerned on the Roman Party: For, his Insolence and Cruelty had animated such against him, as had hopes so to order their matters, as not to be subject to his Malice and Anger. Attilus resolved to oppose him to the utmost; to be revenged upon whom, some conjecture, that he chose rather to invade Gall, whereas he might as easily have passed into Italy. And Theodorich, King of the Western Goths, was so sensible of his Interest, as not to endanger what he and his Predecessors had already seized in Gall and Spain; and therefore, though several bitter Conflicts had happened betwixt him and Attilus, and much Loss on both sides; yet he easily harkened to him, when he moved him to join against the common Enemy, or the Enemy of Mankind; and to carry on the War against him on equal Terms. And they so bestirred themselves, that, to the Forces of the Empire and the Visigoths several other Nations were persuaded to give their Assistance; as the Alani and Suevi, that had settled in Spain; and the Franks, that, by this time, had got good footing in the North-Eastern Parts of Gall.

He rages in Gall with Fire and Sword.

Ortensius relieved.

2. But, in the mean time Attila took his scope in Gall, and raged with Fire and Sword against all sorts of persons and places, of which, not very many escaped his Rage. In Germania Secunda, Thuringi and Cologne suffered much: In Belgica Prima he took and burnt the City of Metz; in Belgica Secunda, the Arrebaters grievously suffered. And, from thence, he proceeded into Senonia, and so far, till he came to Orleans; which refusing to yield, he resolved, with all sorts of Warlike Attempts, to bring to subjection; but the Piety and Endeavours of Anianus, their Bishop, is said so far to have affected them, as to escape his Hands; for Attilus came in timely to their Relief, together with Theodorich, and Thorismund, his Son, who obliged Attila to raise his Siege, and be gone; though, from Sidonius Apollinaris, who once had thoughts of writing the History of this War (being put upon it by Prosper, the Bishop of this City, and Successor of Anianus) it appears, that Attila brake into it, as well as besieged it; yet proceeded not so far as to plunder it: But, being obliged to quit the place, he was much disturbed in his mind thereat; and, understanding that there were Plains called Campi Catallunici not far off, he marched thither; resolving, if he could, to provoke Attilus to fight, whom he little doubted but to overcome by his Numbers. And Attilus was not backward; but, with the Italian Forces, and Confederates, soon presented himself for a bloody Battle.

3. Attila is said before the Battle to have called together his Soothsayers and Diviners to consult them about the success, and received in answer, that he should lose the

A. D. 451.

C. 18. p. 318.

Lib. 3. Ep. 14. Attilianus non solus, appropinquavit, in capite me dicit, capite, &c.

## SECT. 6.

the day, but his Enemies, withal, their principal Captain; which though he did not welllike, yet presuming that *Ætius* would be killed, he thought he should be no loser; such esteem he had of his Conduct, and low thoughts of the other Captains. A Battle being then resolved on, all the Morning was spent in ordering the Armies on both sides, so great was their number. *Attila* ranging all the Carriages he had by the side of a Mountain, made a kind of Rampart, where he bestowed the Women and Baggage, and divided his Army into three Battalions, placing himself with his *Scythians* and *Huns* in the middle. On his Right Hand stood *Ardarich*, King of the *Gepides*, and many others, in whom he confided; and of the Left Wing he gave charge to *Ardarich*, *Theodowir*, and *Valomir*, Kings of the *Goths*. *Ætius* was some time in suspense what to do, because he doubted of the constancy of *Sanguinarius*, King of the *Alans*, who had some thoughts of going over to *Attila*, upon report, that he would agree with him, and redeliver a City he had taken from him. In conclusion, he also made a threefold Division of his Forces, in the middle of which he placed *Sanguinarius*, and both in the Front and Rear, the most valiant of the *Roman* Legions, that the rest thereby might be obliged to fight, The Right Wing he committed to *Theodorich* and his Son, that they might grapple with the *Gepides*, a Warlike Nation, taking to himself the Conduct of the Left.

The memorable Battle in the Camp of *Attila*.

4. Things thus appointed, began one of the most cruel and bloody Battles that ever were fought, though otherwise remarkable for the Flower of so many Nations gathered into two Bodies. The beginning of the Contest was to gain a little Hill situate betwixt the Armies, which would afford a great advantage to those that should fight from the upper Ground. *Attila* had privily conveyed a party to seize on it, who were encountered by *Thorismond*, the Son of *Theodorich*, whom with his *Goths* and *Spaniards*, *Ætius* had ordered to make himself Master of it. There began the Fight, and were relieved by their Friends on both sides, who stood it out from Midnoon to Midnight with great Animosity and Resolution, few observing any thing but only intent upon the Slaughter of their Enemies; so that the particular accidents of the Battle are little known, the multitude being so great, that as Historians write, it was impossible to make out the several parties, and distinguish them. Yet some, they say, observed how a certain Ditch, near the place where the greatest Slaughter was made, was filled to the Brim with Blood, which is reported also to have overflowed the Fields in such a measure, that the dead Bodies floated in it: an extravagant report. But the most moderate is, that a little Rivulet was exceedingly raised by the Goats that strained down into it, and increased its current to such a height, that it carried down the dead Bodies. Great indeed was the number of the slain; for none retired, or betook themselves to fuddea flight: so that some reckon above two hundred thousand; and the most moderate opinion allows of one hundred and eighty, such indignation possessed both parties; the *Barbarians*, that the *Romans* had so long a time held their Dominion; and the *Romans*, that the *Barbarians*, so often defeated and repulsed, should commit such insolence against the Empire.

*Attila* worsted.

5. Although neither Party yielded, but were parted by the inconvenience of a dark night, and the *Romans* lost *Theodorich*, King of the *Goths*; yet had the *Barbarians* the worst of it, whom *Attila* caused to retreat in the best order he could, and fortified himself in the Rampart he had formerly made. *Ætius*, now Master of the Field, took such view as the obscurity of the Night would suffer, that he might in the best manner he could, post his Men, lest the Enemy should take any advantage; for he was not certain whether in all parts he was victorious, and so passed the night in ignorance, as to the death of *Theodorich*. But the Day-light manifested his success; and *Attila*, sensible of his loss, contained himself within his Fortifications, while *Ætius* his Men took the plunder of the Camp. *Thorismond* perceiving his Father to be slain was so enraged, that he resolved presently to attack *Attila*, and revenge his death, of which the *Barbarian* having notice, it is said, heaped together a company of Saddles and upon them resolved to burn himself, when the *Goths* should endanger him, rather chusing such a resolute death, than to conclude his power over so many Nations by the Catastrophe of an ignominious Captivity. But *Ætius* knowing the ambition and present strength of the *Goths*, feared lest after the utter overthrow of *Attila* they should turn their force upon the Empire, which was but in bad case to defend itself, and therefore he thought it Policy to let him escape at present, that by him the *Goths* and *Franks* might be awed, and diverted from all Attempts pernicious to the *Roman* Interest.

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*Procopius, Jordanes, Paulus Diaconus, &c.*

## SECT. 6.

Escapes by permission of *Attila*.

6. He advised *Thorismond*, as one that bore him good will, to hasten into *Spain*, and there take possession of his Father's Kingdom, lest any cross accident should intervene to the disadvantage of his Title. He put him in mind of what danger he was in from his Neighbours, the *Alani* and *Suevi*; and that having secured first all things at home, as a prudent Man must necessarily do, he might afterward find an opportunity to shew his filial piety in revenging his Father's death; an affection by all means to be cherished. *Thorismond* approved of his counsel, and departed with speed to take possession of his Father's Dominions, as well in *Gall*, as *Spain*; and *Ætius* suffered *Attila* to escape. Thus was accomplished the means which conduced to an effect quite contrary to the end designed by *Ætius*, whereby we may see, that Policy and Felicity are things that are often reversed, both by reason of the weakness of Man's Intellects, and the vicissitude of humane Affairs. *Ætius* having obtain'd so great a Victory (which as some others write, procured the death of one hundred and sixty two thousand Men, besides ninety thousand *Gepides* and *Franks*, who fell one upon another and perished the night preceding the Battle) and thereby having secured all that the *Romans* held in *Gall*, as also what *Attila* had invaded, and left the *Franks* and *Burgundians* quiet and peaceable, hastened to *Rome*, where *Valentinian* the Emperor now abode, expecting the event of the Battle. He entered in great triumph, and with incredible joy of the Spectators, who beheld him as their Patron and Protector from those dangers wherein all *Italy* was very near to be overwhelmed. But within a while *Valentinian* began to be jealous of him, imagining he had a design to make himself Emperor, and that he held intelligence with *Attila*, because he had not utterly destroyed him, as he might have done after the Battle; and the suggestion grew so high, that it proved the ruine of them both; as we shall see in due time. *Attila* being relieved for a season, and further vengeance upon *Italy*, departed into *Illyricum*.

into *Illyricum*.

7. *Valentinian*, as by his Arms he rescued his Subjects of *Gall* out of the Hands of the Barbarous *Huns*, so by his Pen took care for settling the matters of those who in *Africa* had been harried by the *Vandals*. Besides other Acts of Grace he gave order to *Firminus* the *Prefect*, that the Lands holden of him should be taken from those who had intruded into them, and bestowed on the indigent persons that had most suffered in the War, particularly the Lands belonging to Bakers, the Rights of the City of *Rome* always saved entire. In the East the Emperor *Martian* took the like care for securing the Estates of such as had procured any Fiscal Grounds or Buildings, either by Donation of the Prince, purchase, or any other way. Provided they paid the Canon, or usual Imposition; by an Edict directed to *Palladius*, *Prefect* of the *East*, he confirmed the Possessions to them in such manner, that the Fiscal Dues being discharged, they might leave them to their Heirs, or dispose of them as they thought convenient.

into *Scythia*.

He resolves to invade *Italy*.

Which thereupon is seized with great terror.

8. In the CCCCXII Year of our Lord, *Herculanus* and *Sporatius* had the Title and Dignity of Consuls. *Attila* was retired into *Pannonia*; and some say, would have attempted something against the Eastern Empire, if he had not been repulsed by the Arms of *Martian*, who managing his matters with great prudence, had made peace with *Perfia*, and in his Treaties still got ground of that Kingdom. *Pannonia* was now become the Seat of the *Huns*, and part of it received a new name of *Hungaria* from them, and the *Gari* as *Sabellians* believes, who joined their Arms with that Nation. *Attila*, some say, thence returned into *Scythia*, his own Country, where he fretted at his last Defeat, and boiled with rage, that he should be worsted. He resolved to make another Attempt, and try once more his fortune, and that should be for a much fairer prize. He resolved to invade *Italy*, which a bounded more than other Provinces with all good things; and where there were no *Goths*, *Alans*, *Burgundians*, nor *Franks* confederate with the *Romans* to oppose him; only *Valentinian* his power, to whom he bore no small a Grudge, as having hindered him not only from subduing the *Goths*, but caused him to miscarry in *Gall* in the late *Catalanian* Battle. He raised an Army out of the same Northern Nations bigger than ever, animating them to the Expedition by hope of great Booty to be gotten. The Rumor of his intentions coming into *Italy*, a second, but more considerable part of that Tragical Fear and Trembling which had happened at the Expeditions of *Aurich* and *Radagaisus* seemed to be acted. For as by them they had had experience of the sad effects of such invasions, so they could not but apprehend greater from this, wherein a great number of *Barbarians* would be employed; and a Captain more fierce and savage than any ever heard of, who delighted to waste and destroy Mankind, as destinated particularly thereto by God himself, or otherwise

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*Novis, Palestina, later Theodoret, &c.*

*Novis, Martiana, &c.*

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*Herculanus & Sporatius Cons.*

Sect. 5. otherwife than as his Scourge. Now again also Stories of Prodiges were multiplied, and in every Man's Mouth; particularly a Report went of three great Stones fallen from Heaven; besides, there was a great Dearth, and that, as is usual, followed by a vehement Pestilence; things that carry dread enough along with them, though accompanied by no other mischiefs.

Thence the original of *Poenia* to be fetched.

9. The expectation was, that *Attila* would make his passage by *Venetia*; and therefore the Inhabitants of that Quarter were seized with the greatest terror, as those who must abide the first violence of the Storm. Seeking about for shelter, they retired into those little Islands that lie in the Sea, at no great distance from Land, imagining that he would not take notice of them, but pass on his way toward *Rome*. Thence, after the occasion was over, they found it agreeable, that what they were driven upon by necessity, they made choice of for convenience, and united themselves into one City, which after the name of the Province they called *Venetia*, now *Venice*, which increasing in Wealth and Reputation for many Ages, is at this day that most Glorious and Virgin-Commonwealth, which being the Lady and Mistress of the Country adjoining (*Padua*, her old Mother passing the time of her extreme Age in her tuition,) hath equalled the length of her Arms with those of the Mediterranean, and thereby grappled with the most churlish and robust Ruffian of her time, now and then soundly buffeting him, and ever keeping him at distance, to the grand reputation of her strength, which conjoined with her Beauty and Virginity, advanceth her above all comparison, both in reference to past and present times, and prevents all expectation of Competition for the future. This of all other Powers and Dominions in the World, is the true Offspring and Remainder of the *Roman* Empire: not any other is now to be found, but what was either out of the Pale of the Empire, or if erected within a Province thereof, hath proceeded and taken its original from the Northern Barbarous Nations. But the Inhabitants of *Venetia* were Roman Citizens, who uniting themselves in this Common-wealth, never changed their condition, neither underwent any change of Propriety, as all others have done. But of *Venice*, God willing, hereafter, in the particular History of that Common-wealth.

10. *Attila*, as soon as the Season permitted, advanced into *Italy* with a vast Army, destroying all things that were subject to Fire and Sword. *Valentinian* was not idle in the mean time, but took what order he might for defence of the Borders and Cities, by assistance of the *Gotick* Nations, commanded by two Officers, called *Alarich* and *Arathala*. But *Attila* proceeded and fate down before *Aquileia*, the Metropolis of *Venetia*, seated on the point, or tongue, as *Fornerius* writes, of the *Adriatick* Sea, formerly a Latine Colony, designed for the protection of the Borders of *Italy*, from the Insults of *Barbarians*. Having refused to yield at his imperious Demand, he begirt it round, and resolved to carry it by storm, but found such vigorous resistance, as both frustrated his expectation, and excited his Choler. The Siege of *Aquileia* hath been much talked of; but little can be found of the circumstances thereof. *Fornerius* tells us, that the *Hun* having for a long time besieged it, but to no purpose, the *Roman* Soldiers so valiantly defended it, when his Army was now ready to mutiny, and to pack up and be gone, walked about the Walls, musing and considering with himself what to do; when he perceived some Storcks which built on the tops of Houses in the City, to bring away their young ones out of the place, and contrary to their manner to carry them out into the Country. Considering all circumstances, he gave notice of it to his Men, and bade them observe how these Birds foreseeing what was to come, and that the City would be destroyed, forsook it in such imminent danger. Hereby he inflamed their minds with a desire of taking it, and being once more resolved to make trial, moved all sorts of Engines to the Walls, in the Attempt took it, plundered, and so cruelly wasted it, that scarcely did remain any Footsteps of it to be seen. So writes *Fornerius* and ancient Historians; but as to the destruction of the City, for as no Footsteps of it remained, *Baronius* gives a good reason why he cannot assent; for that the Inhabitants which had deserted the place, came back again when the Storm was over, as appears from an Epistle of *Leo*, the Bishop of *Rome*, to *Nicetas*, or *Nictas*, the Bishop of *Aquileia*, wherein he answers certain matters, about which he comforted him, particularly what was to be done with those Women who had married other Men since the captivity of their Husbands, who now received their liberty, and returned home.

11. The *Huns* not satisfied with the destruction of *Aquileia*, raged through the other Quarters of *Venetia*, which terrified with that Example, made but weak resistance;

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Sect. 6. resistance; and to *Concordia*, *Altinum*, *Opitergium*, *Patawinum*, and *Ateste*, all noble Towns, easily fell into the Hands of *Attila*, the Inhabitants withdrawing themselves, as they could, into the Islands. He burnt and destroyed them all as much as lay in his power, and now having done his Work here, did not pass on directly to the *Padus* to do the same by *Rome*, as he bragged he would; possibly afraid of *Attila*; but turning to the Right Hand, gave occasion to other Maritime Towns, as *Tarvisium*, *Piccola*, *Perona*, *Mantua*, *Cremona*, *Brixia*, and *Bergomum* not to rejoice above their Fellows, wholly intent on plunder, and the Destruction of Cities, those he levelled with the Ground; and then passing over *Adria*, entered *Liguria*, where he made the same Havock and Desolation. *Taurinum*, *Ticinum* and *Mediolanum*, besides others, felt the sad effects of his fury, the Citizens flying, as they had opportunity, to the Mountains, and other places difficult of access. *Suidas* tells a Story of him, how, when he was at *Milan*, taking notice, that the *Roman* Emperors were painted sitting upon Golden Thrones; and the *Scythians* at their Feet, he caused his own Picture to be made sitting upon a Throne, and the Emperors carrying Sacks upon their Backs, and out of them pouring down Gold at his Feet. Towards Winter he crossed *Padus*, and to shew that he continued the same Man still, laid waste the Cities and Country of *Emilia*, and now went to wreck *Placentia*, *Parma* and other places. All that Trafficking betwixt the *Alpes* and the *Appennine* being thus in his Althes, the Tyrant was afterwards restrained, and the *Levianathan* had an Hook put into his Nose by the Almighty, who had mercy on the remaining parts of *Italy*.

Between the *Alpes* and the *Appennine*.

Then retreats.

12. How this was effected there are various Reports. It's said that *Attila* was ready at the Borders of *Emilia* to oppose him, with a very formidable Army, and equal in strength to that of his. Others say (so doth *Fornerius*) that his Officers about him dissuaded him from attempting any thing against *Rome* it self, objecting to him the example of *Alarich*, King of the *Visigoths*, who survived not long the captivity of that City. That while he fluctuated in an uncertain Resolution what to do, *Leo*, the Bishop of *Rome*, sent by *Valentinian*, the Emperor, came on an Embassy to him, and found him at the place where was a passage over the River *Mincius*. That presently after quitting his rage, he returned whence he came beyond the *Danube*, and departed with promise of peace, withal denouncing and threatening, that he would more heavily afflict *Italy* than ever, except they would fend to him *Honorata*, the Sister of *Valentinian* and Daughter of *Placidia Augusta*. It was reported, that *Honorata*, for the Repute and Reverence of the Court, being kept up close by her Brothers Command, sent an Eunuch privily to him, and invited him to make war against him, that she might make advantage thereof: a very foul Act to procure liberty to her Lust by a publick mischief, as *Fornerius* justly censures it. With the Relation of *Fornerius* agreeeth that which is made by *Paulus Diaconus* in most particulars. But to that concerning *Leo* he adds, that the Attendants of *Attila* demanding the reason why he was so easily drawn from his purpose by the persuasion of the Bishop, he answered, that he saw one stand by him in Sacrodotial Habit, of great Majesty, and venerable Aspect, who with a drawn Sword threatened him with death, if he did not comply with the Bishop's Requests.

13. Had the Writings of *Priscus*, a Rhetorician, come to our hands, we might have had good intelligence concerning the Wars of *Attila*; for he, as *Evagrius* tells us, in a peculiar Treatise declared at large, and with a flowing style, how he invaded both *East* and *West*, how many, and how great Cities he won, and how he behaved himself to the end of his days, which some say was brought about by a Knife, and the Hand of a Woman, at the procurement of *Attila*. But however, gone the Tyrant is back into *Scythia*, and we may hear more yet of him before the time of his death, though these Writers tell those things as happening speedily one after another. Now we must see what farther happened in *East* and *West* in the Year of his Invasion, of Civil Concernment. We find at *Constantinople* two Advocates or Patrons of the Treasury or *Fiscus* made instead of one, to whom *Martian* by an Edict directed to *Palladius* the *Præfect*, gives such place and Honour as formerly the sole Advocate had enjoyed; for when one Dignity is conferred on two persons, it is to be understood to be conferred in *solidum*. This same Year he published another Law, directed to *Aporatius* the Consul, and that for Reformation of the Consulship it self, and restoring it to its pristine Honour. But he forbids the casting away of Money amongst the multitude according to the old custom, assigning that expence to the repairing of *Aqueducts* of the City of *Constantinople*.

*Martian* reforms something about the Consulship.

L. 10. De Advocatis. *Diocletianus* *Diocletianus*, *Cod. Theod.* *lib. 2. tit. 7.* *De castis* *lib. 1. tit. 12.* *lib. 3.*

## Sect. 6.

to the value of an hundred pounds of Gold. This Liberty thus taken away, *Fufinian* afterward restored to the Consuls, but confined to a certain Sum, and to seven times in the year. So did *Martian* employ himself at *Constantinople*. *Valentinian* in the West had sufficient cause to be diverted from making of Laws, when the property of those who were robe governed by them lay in lo extreme hazard. Yet some we find of this Year; as one of Religious Concernment, and another relating to the Incouragement of the *Sharis* of *Rome*, that that City might be the better supplied with Provisions.

14. The Year of our Lord CCCCLIII is Characterized by the Confulthip of *Opilio* and *Vincomalus*; and by little else that we can find of Civil Government. But we cannot but rejoice to think how the cruel Tyrant *Attila* being now withdrawn, the poor Inhabitants of the several places he had harrassed began to peep out of their Retirements, to see if all was clear, and when thereof satisfied, to return to their former Seats, and to set upon the repairing of their former Houses; it being seldom seen, that the Love of the Native Soil, though in greatest defolation, quireth any. Yet so great was the defolation, that some Towns were never repaired; but amends was made by that confluence of persons into the Islands, which gave original, as we said, to the City of *Venice*. *Attila* was retired into his own Country; but where-ever his Body was, his mind was not at rest, but as repenting of that ease he had given the Empire, and not enduring to be out of War, he sent to the Emperor *Martian* in a menacing manner, upbraiding him with not paying what formerly *Theodofius* had engaged; and for being more humane to his Enemies than he was wont. Though he did this, yet *Fornandes* tells us, being crafty and designing, he threatened one place, and fell foul upon another, resolving to turn the fury of his Arms against the *Vifigoths*. But he had not the success he had formerly found against the *Romans*. Returning into *Gall* by other ways than he had done formerly, he resolved to subdue part of the *Alans*, who were feared beyond *Ligeris*, or the *Loire*, by a change of the face of the War to appear more terrible. He moved against them by *Dacia* and *Pannonia*, which were then possessed by the *Huns*, with divers other Nations subject to them. But *Thorismund*, King of the *Vifigoths*, with no less subtilty smelling out his fraud, made haste, and was with the *Alans* before his coming, opposed himself against his Attempts, and engaging in a Battel much what after the same method with that which had been fought in the *Catalaunian* Plains, prevented him of his hoped for Victory, and caused him to flee, without any triumph, back into his own Quarter.

15. The Year CCCCLIII had for Consuls *Stadius* in the East, and *Ætius* again in the West. With *Ætius*, *Thorismund*, King of the *Goths*, had a quarrel; and, as is conjectured, for that having made an agreement with *Attila* he had not assisted him in his late distress. He broke out into Hostility against the *Romans*, and laid Siege to *Arles*, intending to starve them out, whom by force he had in vain attempted to bring under. *Ætius*, as soon as he had notice, was presently at hand with such Forces as he had in readiness, and a Fight there followed betwixt them; but he was not able to raise the Siege. At this time *Ferrelus* was *Præfectus Prætorio* of *Gall*, a person, for his Nobility, excellent Conduct, and singular Humanity, in great esteem, as well with *Goths* as others. He went to *Thorismund*, invited him to Dinner, and by an Entertainment removed him from the Gates of *Arles*, whom *Ætius* could not by Battel. For so *Sidonius Apollinaris* tells him in an Epistle, wherein he begs his excuse for not having related at full in some Work wherein he had employed his pains, the great performance of his Ancestors and his own Actions. It seems this *Ferrelus* went afterwards into Orders; and therefore *Sidonius* partly engages himself to joyn the History of his Life to those of Bishops, and Ecclesiastical Persons: but in this Epistle, besides the removing of *Thorismund* from *Arles*, he confesseth he had passed by how *Gall* had been governed by him when most in safety; how *Attila*, the Enemy of *Rhine*; *Thorismund*, the Guest of *Rhine*, and *Ætius*, the Reliever of *Ligeris* or *Loire* had been sustain'd by the Salubrity of his Dispositions, (as he words it, in his degenerated Roman Phrase) and for his great prudence and foresight the Provincials, with Spontaneous Necks, and greatest Accent of Applause, underwent his Chariot of Government; for he held the Reins of *Gall* in such a manner, that the Possessor exhauled under a Tributary Yoke, was relieved. He confesses farther, that he had omitted how the most fierce King of *Gothia* had by his sweet, grave, argute and extraordinary speech and conversation been made compliant. He had told him before that, intending a publick

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Novelle Valentiniani 12. 6.  
15. But 17. &  
3. Cal. Jul.

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453.

Opilio &  
Vincomalo  
Coff.

Attila dies, c. 43.

'Attila in vain  
attacks the  
Latin.Thorismund,  
King of the  
Goths, besieges  
Arles, and is  
persuaded to  
remove.

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Stadius &  
Ætius Coff.Lth. 7. Ep. 12.  
Sidonius Per-  
ole suo saluam.  
Non tamen in-  
finitis Populi  
puffin felle Ex-  
piffipit.

## Sect. 6.

a publick salutation to him, he had considered not what he had been, but what he was at present.

16. *Attila* being retired home now gave up himself to Idleness and Luxury. The History, going under the name of *Paulus Diaconus*, relates, that being returned into his own Country, to the many Wives he had already, he added a Virgin very beautiful, called *Indulito*. And at the Wedding making an extraordinary Feast, he drunk more Wine than ever he had done before at once, and lying upon his Back, was suffocated with a great effusion of Blood out of his Nose, to which he had been formerly subject. He adds, that the same night *Martian* was in a dream told from God, that the Bow of *Attila* was broken. *Fornandes*, from *Prifcus* the Historian calleth the Maid by the name of *Alacio*, adds, that she was very beautiful, and that after innumerable other Wives, as the custom of that Nation was, he took her also in Marriage. That being exceedingly merry at the Wedding, and now heavy with Wine and Sleep, as he lay upon his Back, abundance of Blood, which was wont to issue out of his Nose, being hindred of passage, poured down it self into his Throat, and choked him. So was a King glorious for War brought to a despicable end by Drunkenness. The next morning when it grew late, and his Attendants heard nothing of him, suspecting all was not well, after great noise they broke open the door, and found *Attila* dead of bleeding, without any Wound, and the Girl weeping under a Veil with a dejected countenance. Then according to the manner of their Funerals did they cut off part of their Hair, and with Galhes made their ugly Faces still more deformed, that so great a Warrior might be lamented with the Blood of Man, and not with Womanish Compliments and Tears. Concerning *Martian* who was now solicitous concerning *Attila*, his being certified in a Dream that his Bow was broken. *Fornandes* also confirmeth it from *Prifcus*, who said he affirmed it by true attestation. For so terrible was *Attila* to the great powers upon earth, that his Death was esteemed as a great Gift of God.

His Funeral.

17. Having acquainted us with thus much out of *Prifcus*, he thinks fit not to omit the Solemnity of *Attila* his Funeral, but give an account of many things performed at it in few words. The Body was in the middle of the Camp, placed within a Silken Tent; and then was presented an admirable Show, solemnly exhibited. For out of the whole Nation of the *Huns* most choice Horsemen were employed to make their courses after the manner of the *Circenfian* Exercises in that place; and compassing it about as they went, they chanted in a Funeral Song the Acts of the deceased after this manner: *Attila* the greatest and most excellent King of the *Huns*, the Son of *Munduch*, Lord of most valiant Nations, who possessed of such power as before him was not heard of, alone held the *Scythian* and *German* Kingdoms, put to a fright both the Empires of the *Roman* City, by taking their Towns; and left the rest should be made a prey, being appeased, received of them a yearly Tribute; who, when in a course of felicity he had done all those things, died, not by the hand of an Enemy, not through treachery of his own Men, but merry and in jollity, his Nation at the same time being safe, without any sense of pain. Who will therefore call that an *Exit*, which no Man accounts fit to be revenged? After he was bewailed with such Lamentations, they feasted over the Herle in a solemn manner, which they called *Sirava*, and mixing things that were contrary together, joyed joy and jollity with a Funeral Mourning, and at length by night the Body was secretly put into the earth. His Coffin they first enclosed with Gold, then with Silver, and then upon that laid Iron, thereby to shew, that the most potent King had all these Metals in his power: Iron, by which he conquered Nations; and Gold and Silver, for that he had obtained the Wealth of both the Empires. They added Arms got by slaughter of Enemies, Trappings and Ornaments, precious by reason of the lustre of their Gems, and divers other sorts of rarities with which Courts are wont to be adorned. And that humane curiosity might not approach these so many and so great Riches, by a detestable sort of reward they killed such as were employed in the Interment, and a sudden death happened to the Buriers with him whom they buried.

18. Such is the account we have from *Fornandes*, concerning the death of *Attila*, from whose Relation *Marcellinus* differs, in that he writes, that he was killed by a Woman: and the Story being told of the new married Woman being found with him in the Room might raise a suspicion. But he being dead, a diffention arose amongst his numerous (some term them innumerable) and ambitious Sons about the Succession; and while all imprudently desired to reign, all of them

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Attila's Coffin.

Fornandes, c. 50.

Sect. 6. miscarried in the Attempt; for Kingdoms and Empires are wont to be disordered more by plenty than scarcity of Successors. They went about to divide their Father's Dominions by lot, so as all might share, not only his Hereditary Countries, but the conquered Nations. *Ardarich*, King of the *Gepida*, perceiving this, and disdaining, that so many Countries should be subjected to such wretched Slavery, first rose up against the Sons of *Attila*, and shook off the Yoke from his own Neck, whose example was of such force, that the other Nations encouraged by his success, asserted and procured their former liberty. He with his Associates gave Battle to the *Huns*, and their Subjects in *Pannonia*, near to the River *Nestus*. *Fornandes* esteems it a fight to be admired, to have seen the furious *Goths* fighting with his Sword, the *Gepida* breaking all his Lances in the Wounds of his own Men, the *Sueve* to presume upon his Feet, and the *Huns* upon his Arrows; the *Manni* to fight with heavy, and the *Herulus* with light Armour. After terrible Conflicts an unexpected Victory happened to the *Gepida*. For the Sword of *Ardarich* and his Associates destroyed near thirty thousand of the *Huns*; and their Assistants. In the Battle perished *Ellas*, the eldest Son of *Attila*, whom his Father so far loved more than the rest, that he preferred him above them all in the Kingdom. But his fortune was not answerable to his Father's Wishes; yet after great Slaughtering made of his Enemies, he died so valiantly, that if his Father had been living, he must have wished for so glorious an end. The other Brothers after his death were driven towards the Shore of the Sea of *Pontus*, where formerly the *Goths* had inhabited.

His Sons driven to the Shore of Pontus.

Their Possessions shared.

19. Thus did the *Huns* fly and retire, who lately, as was thought, would put all other Nations to flight; so pernicious a thing is Diffension. The People lately subject to them, now lifted up their Heads with joyful expectation of freedom, and many sending their Messengers to the Emperor *Martian*, he kindly received them, and assigned them places to inhabit. For the *Gepida* having by force possessed themselves of the Seats of the *Huns*, as Conquerors held all the Coasts of *Dacia*, and required nothing farther of the Empire but Friendship, and such things as were due to valiant Men; which the Emperor willingly granted, and this became a custom to the days of *Fornandes*. The *Goths* perceiving that the *Gepida* had seized on the Seats of the *Huns*, and that the *Huns* were retired to the Quarter that they had formerly possessed, resolved rather to use fair means, and desire a Country from the Empire, than with danger to invade the Territories of other Nations by force, and so received *Pannonia*, extending out in a long Plain, having on the East *Mesapia superior*; on the South *Dalmatia*; on the West *Noricum*; and the *Danube* on the North; all this Tract extending from *Sirmium* to *Vindobona*; the *Sauromata*, or *Sarmatae*, the *Comandri* and some of the *Huns* late down in that part of *Ilyricum* near the Castle *Martenna*. The *Sciri*, the *Sagarii*, and the rest of the *Alans*, with *Candax* their Captain received *Scythia* the less, and *Mesapia inferior* to inhabit. The *Rugi* and some other sorts of People went to inhabit at *Biozimeta* and *Scandiopolis*. *Flerus*, the younger Son of *Attila* chose for himself and his Followers a place in the utmost of the lesser *Scythia*. *Ermundzar* and *Uzindur* his Kinsmen in *Dacia Ripensis*; *Uto* and *Iscaulus*, who formerly held it, and many of the *Huns* falling into *Romania*. There were other *Goths* called *Minoris*, yet a vast People, with their Bishop and Primate *Fulfilas*, who is said, to have instructed them in Learning, and those in the days of *Fornandes* held that part of *Mesapia* called *Eucopolitana*. This Narration of his concerning the fixing of these several Nations is very much to be regarded, and which will receive illustration from what we shall say afterwards concerning the original of the *Goths*.

20. As this Year was fatal to *Attila*, so to some other great Princes; for now died *Theodismund*, King of the *Goths*, who was killed by a Dependant, as he was letting Blood. And to these, some add the death of *Pulcheria Augusta*. To be sure it was fatal to *Atius* the Consul, and consequently to the Empire it self; for so writes *Marcellinus*, that now *Atius*, the Patrician, the great preserver of the Western Empire, and formerly the terror of *Attila*, was together with *Boetius*, his Friend, slain in the Palace by *Valentinian* the Emperor, and with him fell the Western Empire, which hitherto, saith he, it hath not been possible to restore. This he tells in short, of which *Procopius* gives a larger account, as to the occasion and motives. There was amongst the Senators one *Maximus*, a Roman, of the posterity of that *Maximus* who usurped, and was overthrown by *Theodosius* the Great, the day of which Victory was kept holy in memory of it, in the time of the Historian. He had a Wife which excelled in prudence, and also in Beauty; and with her the Emperor

A.D. 454.

Fornandes, p. 51.

Hist. Pandalia, lib. 1.

Sect. 6. peror *Valentinian* fell desperately in love. Not knowing how otherwise to enjoy her he bethought himself of this wretched course. He sent for *Maximus* to Court, and beating him at Dice, received his Ring from him as a Pawn for the Money he had lost. This he sends privately to his Wife, as a token that she should come and give a visit to *Eudoxia* the Empress, and the not doubting any thing, came in her Litter, but having entered the Palace, was seized by some Men that were set on purpose, and conveyed into a private Apartment, where *Valentinian* by force had his will of her. Home he returned, and by tears and all other expressions of sorrow testified how much she repented the injury, and cursed *Maximus* for giving occasion to such mischief. With this he was enraged, and devised how he might procure the destruction of the Emperor. He draided *Atius*, whom he knew to be so great a Captain, and had lately defeated *Attila*, and therefore thought it best first to remove him out of the way, in whom understanding Men placed their hope, and by assistance of the Eunuchs, who were his Friends, he perswaded *Valentinian*, that *Atius* had a purpose to usurp. The Authority and Power of the Man procured the Emperor to admit of this Jealousie: and therefore he commanded him to be slain. When the Fact was done, some say by the Emperor's own hand, some say by others, he asked a certain Roman whether he had not done well to take him out of the way. He answered, that whether he had done well or ill he knew not: but this he knew, that he had cut off his Right Hand with his Left.

Upon what occasion.

Great Famine and Pestilence.

Valentinian

21. This fatal Year was not concluded with these mischiefs. For in it died the *Pandals* from *Africa* exercise Pyracry, and made Depredations in *Sicily*. Several of the Provinces of the *East* were also grievously harried with Famine, and a Plague; particularly in both the *Phrygias*, in *Galaria*, *Cappadocia* and *Cilicia*, there was such want of Rain, that Men being destitute of Necessaries, had recourse to pestiferous and deadly food, which cast them into great Distempers; their Bodies swelled, and so excessive was their heat, that by great Inflammations they lost their sight, and were seized with Coughs, and on the third day they died. *Evoagrius* writes, that the Plague could no way be cured; but by the providence of God the Famine was allayed by Nourishment which fell out of the Air, as *Manna* of old did to the *Israelites*; and the year following the earth of it self brought forth abundantly. He adds, that not only *Palestine* was in this manner afflicted; but other heavy Calamities raged in many and almost infinite other Regions. Amongst these infinite other Regions are to be reckoned the Western and Northern Tracts, which otherwise appear to have been afflicted with Famine; and particularly the Country since called *Austria*, with the chief City, known at this day by the name of *Vienna*; but then, it's said, called *Fabiana*.

Herod. lib. 2.

Lib. 2. c. 4.

22. The Year of our Lord CCCCLV being by some styled the Year of Vengeance, or Revenge, for reasons we shall shortly relate, was known by the eighth Consulship of *Valentinian*, and that of *Anthemius*, his Colleague. Now did the Designs of *Maximus* come to a ripeness, in way to his purposed Revenge. For having removed *Atius*, who alone was able to prevent, or render invalid any Attempt; he then insinuated into the Servants and Dependents of that great Man, and perswaded them to revenge his undeserved death. Upon two of his Guard, known to posterity by the name of *Ofilia* and *Transila*, his words had greatest operation, who laying their Trains as would best accomplish their business, fell upon him as he was making a speech from the Tribunal, in the *Campus Martius*, when he thought neither of conspiracy nor death; and having first dispatched *Heraculus*, an Eunuch, who valiantly interposed and endeavoured to save his Master, slew him in the place. Thus he is said to have perished in the thirtieth year of his Reign, and the thirty-fifth of his Age, on the eighteenth day of *March*. During his Government, the Empire, which in the time of *Honorius* began much to decline, grew to be seized of a mortal Distemper. But this may be said in his behalf, that he was not unhappy in the Contest he had with the greatest *Heitor* and Enemy of these times, having by his Arms sometimes worsted *Attila*, and otherwise obliged him to pack up and be gone out of his Dominions. To be sure he was the last that may seem to have been an Emperor indeed, in whom true Imperial Majesty resided. For those that followed him in the *West* were Upstarts, Usurpers, or like Apparitions, that soon appeared, and soon vanished. Under them the Limbs of the Empire were torn in pieces one from another; and the Provinces were daily lost, and fell into the Hands of Barbarous Nations. And as with the Growth of the Empire good Letters had received increase, and were propagated; so they had

A.D. 455.  
Valentinian, A.  
8. & Anthemius, Consuls.

guished

Sect. 6. guished together with it, and study being little regarded when life it self is to be preferred, dwindled at length into Barbarism and Ignorance. This is seen by that slender Account we have left us concerning the revolutions of the succeeding times. A. D. 455.

## S E C T. VII.

## The Seventh Step to the Ruin of the Empire in the West.

## Containing the Pangs and Expiring of the Empire of the West.

## From the Death of Valentinian the Third to the deposing of Augustulus.

## The Space of Twenty one Years.

Maximus the Murderer usurps.

I. Valentinian being dead, Maximus, the Contriver of his Ruine, easily advanced himself into his Seat; there being none indeed that could well oppose him. Being seated, he now considered how he might best establish himself. He thought it would contribute to his security, if he committed the trust of the Army to Avitus, a person famous for his well discharged Employments, who at present was *Præfectus Prætorio in Gall.* There was no Son or Brother of the deceased Emperor left to call in question his Title; but *Eudoxia*, his Wife, was still alive, and he resolved by Marriage with her (his own Wife being lately dead) to gain reputation and vigor to it. Therefore did he, as both *Procopius* and *Evagrius* write, force her to take him for an Husband; and yet was he so captivated by her Arts, or his own affections, that love arising sometimes it seems from policy, in the night, when they were in Bed, he told her all the Story of *Valentinian's* death, how it was contrived and brought to pass; and endeavoured to make her believe, that it was all designed and contrived out of his love to her person. She hated him before, as *Procopius* tells us, and was now intraged to find how he had caused her Lord and Husband to be murdered, and ascribed all the Villany to her, as the cause that principally moved him. No sooner was the Morning come, and she was out of Bed, but burning as much with desire of Revenge, as he did with Love, she sent away a Messenger to *Genesrich*, then lying at *Carthage*, to let him understand, how her Husband the Emperor had been wickedly murdered, the Empire seized, and her own person in a manner captivated by a Traitor, and that he should act like himself, and the Ally of *Valentinian's*, *Procopius* lib. 1. *Pandul. lib. 1.* *Evagrius* lib. 1. if he would come, and by his Arms vindicate the Roman Name and Majesty from so great Dishonour. The Message was very acceptable to *Genesrich*, who had long desired to find out such an opportunity as was now offered to him, and glad he was, that *Theodosius* was dead, and so could not take the work out of his Hands, which he thought *Martian* would neglect, as having no such Relation to *Eudoxia*.

2. He rigged up his Fleet, put aboard his Men, and with all alacrity pursued his Voyage, such courage did the expectation of the rich Booty put into him. And he could not have come at a better time; for the Man he was to deal with, was as much now down in his spirits, as he himself was joyful and frolick. He had formerly lived at his ease, and in great affluence of all both conveniences and pleasures. *Maximus* had run through all sorts of Honours and Preferments below the Purple, and his Senatorian

Sect. 7. Senatorian Dignity, his great Estate accompanied with a good conscience and reputation, made his Nights possibly no less easy and pleasant than his days. But now his ease was disturbed by continual cares and perplexities about securing his ill gotten Dominion; his Counsellors, his Guards and Soldiers distracted him, and in vain he sought by night for that sleep and rest which should give some intermission to his anxieties. This is affirmed by *Sidonius Apollinaris*, in his answer to the Epistle of his Friend *Serranus*, wherein he had much extolled the felicity of this *Petronius Maximus* his Patron. In that answer he affirms, that he had heard one *Fulgentius*, a person of Questorian Dignity, relate, how he had often declared to him by his own Mouth how much he abhorred that Burthen of the Empire, which he had so ambitiously pulled upon his Shoulders, and how happy he esteemed the condition of *Damocles*; who had born the necessity of a Royal Estate, only during the length of one Dinner. Of this *Damocles* the Story is obvious, how being familiar with *Dionysius*, the Tyrant of *Syracuse*, he excessively and ignorantly was wont to extol the felicity at which his Friend and Patron had arrived. *Dionysius* asked him if he would sit down to Meat at his Table, and therein in a plentiful Entertainment make an experiment both of the conveniences and inconveniences, which he so splendidly enjoyed. He consented, and joyfully sat down, accoutred in *Regalibus*; with costly and delicious Fare was he entertained, and served as a King in all respects, like some *Sardanapalus*; so rich was the Furniture of his Table, so great was the value of his Vessels he drank in, set out with Gems and Pearls, and so numerous and well habited his Attendance. But when he began to fall to his Victuals, his Stomach was quickly turned by a fight he beheld over his Head. There hung from the Roof of the Room a naked Sword in no stronger a bond than the Hair of an Horse, which put him in continual danger of having that Throat cut which should swallow the Meat, and procuring a false and uneasy passage for his delicate Viands. Now like another *Tantalus* he desired to remove from those pleasant things he could not enjoy; and by his prayers mixed with tears and sighs hardly obtained a dismissal from his Royal Delights, from which his Heels carried him with greater celerity and ease than they brought him thither. This Story *Sidonius* relates and philosophizeth in more apt words and expressions than usual upon that ticklish and uncertain, though specious condition of those Men who chuse to feed on Blood, before the Feast of a good conscience, and forsake their ease and quiet to attain the short and anxious pleasures of Usurpation.

3. In this plight was *Maximus* found, when *Genesrich* with three hundred troops, (as some write improbably) of *Pandals* and *Moors* landed upon the Coast of *Africa*: His sudden and unexpected coming contributed to the confirmation of the Usurper, and consequently to his own success, and the expedition of his Business. The City was absolutely surpris'd, the Inhabitants thereof being quite put out of all other methods of consultation, than how best every Man to shift for himself, into Mountains or other places difficult of access, or hard to be discovered. And *Maximus* himself would not be one Furlong behind them. He fled as well as the rest, deserture of all his Friends, whose some Senators, his Enemies; seeing to be alone, and without defence, were so bold as to take the advantage, and flung him; then being dragged all torn and bruised as he was, they sent his Body by one *Ulfus*, a Roman Soldier, to be cast into *Tiber*. This happened about the twelfth of *June*, and some three days after *Genesrich* entered the City, now fully exposed to his lust and appetite. He had promised *Eudoxia* very fair things, in reference to moderation, and abstinence from all rapine and plunder. *Leo* the Bishop also with some of the Nobility met him at the Gate, and the better to move him, put him in mind how even *Attila*, a Pagan, had been persuaded to own the respect that was due to the Mistress of the World. But he was deaf to all charmings of this nature, and contrary to his faith given to *Eudoxia*, not only rifled the Imperial Treasure; but all that was excellent besides. The Statues and Tiles of *Jupiter Capitolinus* he made bold with, and he took away the Vessels of the Temple of *Jerusalem*, which *Titus* formerly had brought to *Rome*; and afterwards when *Africa* was recovered, were by *Belisarius* sent to *Constantinople*, and returned back to *Jerusalem* by order of *Justinian*. *Evagrius* writes, that the Barbarian being of inconsistent behaviour, and little fidelity, set the City on fire. Others speak only of the burning of such things as were made for show and pleasure; some, that *Leo* meeting him in his way, persuaded him to abstain from Blood and Fire; yet he took away all the Wealth, except that of the three principal Churches, and led away many thousands of Prisoners into *Africa*.

And is distressed in his mind.

*Sidonius Apollinaris*, lib. 2. p. 12.

He is killed.

And *Genesrich* rifled *Rome*.

Sect. 7.

Who carries  
away prisoner  
Eudoxia and  
her two  
Daughters.Avitus made  
Emperor in  
Gall.Lays down the  
Purple.

4. It's affirmed by others, that the plundering of Rome continued fourteen days; and several write, that most of the plunder was loft at Sea; though *Procopius* mentions it as a report that only that Ship which carried the Statues was sunk, and the other Vessels arrived safe with the *Vandals* in the Port of *Carthage*. But amongst other Prisoners, notwithstanding the faith given to her, he carried away *Eudoxia* the Empress, and her two Daughters *Eudocia* and *Placidia*, whereof *Eudocia* he married to his eldest Son *Honorich*; and *Placidia* became afterwards the Wife of *Olybrius*, a Noble Roman Senator, being by *Genferich* sent away with her Mother to *Constantinople*, at the desire of *Leo*, who succeeded *Martian* in the East. So *Procopius*, but *Evagrius* writes, that he sent *Placidia* the younger Daughter together with her Mother, and that with Royal Equipage to *Martian* himself, hoping thereby to mitigate his displeasure; for he was highly offended with the burning of *Rome*, and the ill usage of *Valentinian* his Daughters: and that afterwards *Martian* gave *Placidia* in Marriage to *Olybrius*, a Noble Man, and Senator of *Rome*, who, when the City was taken, had fled to *Constantinople*, and to whom, some say, she had been formerly contracted. After the death of *Maximus* followed an *Inter-regnum* in the West for twenty eight days; and then was *Avitus* proclaimed Emperor in *Gall*, who having been by *Valentinian* preferred to the Dignity of *Præfatus Prætorio* of that District, was also lately by *Maximus* made *Magister Militum*, and at this time discharged the Office of an Ambassador in a Negotiation of Peace to *Theodorich*, King of the *Goths*, who, some write, having slain his Brother *Thurismund*, had seized on his Kingdom. By the assistance of the *Goths*, and especial procurement of *Theodorich*, he was promoted to the Purple. *Avitus* was a Man of excellent Qualifications, both as to War and Civil Matters; of great Nobility, an excellent Orator, as excellent a Lawyer; not unaccustomed to the Travels and Inconveniences of a Soldier. Being against his will, advanced to the supreme Honour, to the great joy of the Provincials of *Gall*, who promised themselves all good things from the Government of so brave a person, he applied himself to such Councils as might best conduce to the safety of the State. Particularly took order for defending the Quarters lying beyond the River *Ligeris*, against the Incursions of the *Franks*, and those on the South side of the said River, or nearest to *Italy*, from the violence of the *Goths*. And by virtue of the League and Friendship contracted betwix him and *Theodorich*, he committed that portion of *Spain* which as yet acknowledged obedience to the Empire; to be defended by him against the Attempts of *Riccar*, King of the *Suevi*. And so we quit this Year without any other observations, but that on the tenth of *July*, the same day that *Avitus* was inaugurated, happened a great Earthquake in *Novia*, that therewith all the City *Sabaria* was overwhelmed.

5. That follows which was the CCCCLVI. of our Lord; and as the Chronicles of *Cassiodorus* and *Marcellinus* do mark it, had for Consuls one *Pobin* and *Varanes*, or *Parares*. But that *Avitus* the Emperor himself assumed this Title, we are sufficiently informed from the Panegyrick made to him by *Sidonius Apollinaris* in Verse, on New-years-day, and that in the very way of celebrating his Consulship. And *Baronius* puts himself out of doubt by producing an ancient Inscription, extant at *Rome* in the Church of *S. Agnes* in the *Numentana* Street. But so it might happen, that together with the Purple *Avitus* might also quit the Consulship. For *Cassiodorus* notes, that this Year he laid down the Imperial Dignity at *Placentia*, and that he ceased to be Emperor is no doubt at all; but as to the occasion of it there are various Reports. *Evagrius*, in short, faith he died of the Plague; *Nicephorus* by Famine; but *Gregory of Tours* writes it for truth, that living luxuriously, he was cast out by the Senators, and at *Placentia* was ordained Bishop of that City. That for all his deposing, having found that the Senate, Rill angry with him, designed to take away his life, he resolved with many rich offerings to take Sanctuary in the Church of *S. Julian*, a Martyr of the *Averni* (whose Countryman that he was, *Gregory* faith, was most manifest) and dying in the way, was buried in the Town he calls *Brivatenfis Viens* at the Feet of the said Martyr. Now some there are that fetch the Story a little higher. They tell us how *Avitus* having settled his Affairs in *Gall*, resolved to pass into *Italy*, and take possession of the Government of that Country which he had a just Title, as well as to the other Members of the Western Empire. With the assistance of the *Goths* he passed the *Alpes*, went to *Rome*, and there finding no opposition, applied himself to State Affairs, which he managed in such tranquility, that as being altogether secure from Plots and Conspiracies, he dismissed his *Goths*, trusting to the fidelity of the *Romans*.

A. D.

455.

A. D.

456.

John &amp; Constantine.

Principis antio-

rior iam confu-

sis iste confu-

satus &amp; con-

suetudo trahit

Dianonata

confu-

His confu-

suetudo deposit

avitus impo-

sit.

Toto di 2

blos Nipho

mala Nido-

mala G.

Sect. 7.

Theodorich  
victorious in  
Spain.The Franks  
erect a King-  
dom in Gall.Africa also falls  
out.

Marian dies.

The Senate perceiving how exposed he now was, and hating him, either for his luxurious life, or in obedience to some instructions receiv'd from the Emperor *Martian*, laid their Trains, and easily drove him out of the City. Being in this distress, and not knowing how to recover his Station, he resolv'd for *Emilia*, and with a slender Company came to *Placentia*. At that time *Ricimer*, a *Sueve*, who had been by *Valentinian* made *Magister Militum*, in the room of *Ætius*, in a manner sustained all the Burthen of *Italy*. He hearing of *Avitus* his coming to *Placentia*, went thither, as he pretended, to wait on him; but in compliance with *Martian* his orders, raised a Mutiny, and compelled him to divest himself of the Purple; and in the tumult *Assianus*, the *Patrician* of *Avitus* was killed, while he courageously endeavoured to defend the Dignity of his Prince, who on the seventeenth of *May* suffered this Degradation, which he had not deserved. But probable it is, that out of hatred to *Maximus*, who had made him his *Magister Militum*, and who had been the cause of the burning and plundering of the City, the *Romans* would not own him for Emperor, abominating all things and persons that had any relation to that Man. Some reckon ten Months and eight Days to his Government; but *Evagrius* only allows him eight Months.

6. In the mean time, *Theodorich* (or as *Isidore* calls him *Tenderich*) King of the *Goths*, who with the *Galls* had assisted *Avitus* in obtaining the Empire, with a numerous Army quitted *Aquitain*, and with his leave and consent invaded *Spain*. There he was opposed by *Recltar*, King of the *Suevi*, and twelve miles off from the City called *Urbs Asturigenfis*, by the River *Urbicus* he gave him Battle; but the Victory fell to the *Goths*, and the *Suevi* being slaughtered in great numbers, some of them taken, and many running away, their King was wounded, and seized in his flight, and being presented to *Theodorich*, was put to death. After this, many that had escaped the Battle yielded themselves, and some being punished in the same manner, the Kingdom of the *Suevi* was in a manner extinct. *Theodorich* now wasted *Gallicia* and *Lusitania* (now *Portugal*) but his absence in *Spain* fell out well for *Childerich*, King of the *Franks*, who had not long before succeeded *Merovee*, the Successor of *Clodio*, as he of *Pharamond*. Who this *Pharamond* was, doth not appear from *Gregory of Tours*, and who preceded him in that Dignity is also obscure; but that this most valiant Nation had Kings before, is evident both from *Ammianus* and others. The *Goths* being diverted thus in *Spain*, and the *Roman* Army having followed *Avitus* into *Italy*, the *Franks* had the opportunity they often had fought in vain, in settling their Kingdom in that noble Country of *Gall*. Long and often before had they invaded it, but were repulsed, as in the time of *Aurelianus*, and during the Reign of *Fulian*, besides many Incursions suddenly made upon occasion. In the time of *Valentinian* the Third they joined with the *Burgundians*, and piercing further into the *Roman* Pale, were, as we have formerly shewn, repulsed by *Ætius* and *Majorianus*. At length by occasion of *Attila* his Invasion, they got into the middle of *Gall*, and there from this time established their Kingdom at *Paris*, under *Childerich*, concerning whom we shall speak at large in the particular History of that Nation, as also the original of these *Franks*. But thus was another Principality cut out of the Body of the Western Empire.

7. The Year of our Lord CCCCLVII, is characterized with the Consulship of *Constantine* and *Rufus*. The *Inter-regnum* in the West still continued, *Sidonius Apollinaris* having proved but a bad Prophet in his Panegyrick to *Avitus*, when he feigned how the *Parce* spun an happy time for his Government, and Gold and Ages should be ushered in by his Consulship. So lucky was this Age, that *Genferich*, the *Vandal*, having broken the League made with the *Romans* by the violence offered to the City, resolve to pursue what he had unjustly begun, and give stamp to one mischief by another. For now did he seize upon that part of *Africa*, which in the partition of that Country was left to *Valentinian*, and driving away the *Roman* Officers, added it to his own Dominion; and so fell off also that noble Province from the Empire, and continued in the hands of the *Vandals* till afterward it was happily recovered by *Fusianus*. As *Rome* was now in the condition of Widow-hood, wanting an Head and Governour, so the same thing shortly happened also to *Constantinople*, which in the beginning of this Year underwent the like change. For before the beginning of *March*, (some say, on the twenty sixth of *January*, others, on the twenty fourth of *February*) the Emperor *Martian* departed this life, at such time as being highly sensible of the Indignities and Injuries put upon the Empire by *Genferich*, he prepared by his Arms to revenge the Affronts which the Majesty of *Rome* had received. To his Reign Chronologers assign six Years,

A. D.

456.

Isidore ad A-

ram, 491.

Editions Græ-

cæ.

A. D.

457.

Constantine

&amp; Rufus Conf.

Felix

tempus novæ

severæ

severæ au-

gustis suis

confu-

suetudo

libus darent

secula post.





## Sect. 7.

His Letter to  
the Senate.

for which I was born. On the *Calends* dedicated to *Janus* we erected the Fæces of our happily assumed Confulship, that the present year receiving the growths of our new born Empire, may be also signalized by our Name. Fa-  
vours now the Prince you your selves have made, and partake with us in managing publick Affairs, that the Empire which was given me by your endea-  
vours may be augmented through our common Conduct. Conclude you that Justice will flourish in our days, and Virtues may make a progress under the merit of Innocence. Let no Man stand in fear of Informers, whom, when private, we condemned, and now specially do oppose. Let none be apprehensive of Calumnies, but such as are of his own raising. Watchful and diligent in Military Matters will we be, together with our Parent and Patrian *Reximer*. Under God we will preserve in safety the State of the *Roman* World, which by our common watchfulness we have freed both from a Common Enemy, and Domestic Mischief. I think you sufficiently know my Breeding, as in love to you, and formerly a companion in life and dangers, I easily promise my self you do, but I shall still endeavour in all publick matters, if God so please, by the authority of a Prince, and with the assistance of my Colleague, that of the choice you have made, you shall have no cause to repent. We wish that in all happiness you may continue most flourishing for many years. Farewel, Conscript Fathers, of the most Sacred Order.

12. By this civil and obliging Letter he could not but please the Senate, but Wars without Deeds will not long preserve Reputation. He employed therefore his *Quæstor* in other matters for reformation of Grievances, and the ease of the People, sufficiently harraired in these troublesome times, wherein the Provinces were still afflicted either by Foreign Enemies, or Domestic: notwithstanding it pleased God to raise up Deliverers now and then. The Provinces were very empty, and the Cities exhausted by reason of Wars and other Disorders, and the poor Provincials discouraged enough other ways, were so troubled with *Compulsors* about the payment of Tributes, that many forsook their Dwellings, and betook themselves into solitary places. He considered, that to give redress to such inconveniences, it would be require to reinforce the custom of chusing the *Defensores plebis* throughout the Cities, that by them he might be acquainted with their Grievances, without putting poor people to the charge and pain of coming up to Court. For this purpose he published an Edict, bearing date on the eighth of *March*, and directed to all Governors of Provinces, requiring them to cause such *Defensores* to be chosen in all the Cities of their several Jurisdictions. He commands them, that to this end they summon the wonted Assemblies of the *Municipes*, *Honorati* and *Plebs*, or common sort, that in them may be fit Solicitors made of honest and deserving Men, without any seeking or canvassing for the Employment. One of the greatest Grievances mentioned in this Edict, as motives to the publishing of it, is the violence and injustice of the *Compulsors*; and the authority of the *Defensores* he thought might put some restraint upon them. But upon further consideration he resolved to take clear away their Employment. And for this end the very next day he directed another Constitution to *Palladius* the *Præfæctus Prætorio*, which contained a full and general Pardon and Remission of all Dues whatsoever that were behind, belonging either to the Receipt of him the said *Præfæct*, or either of the Treasurers, from the beginning of the world to the beginning of this present eleventh Indiction. And because the *Possessors* were terrified and frightened out of their Goods by the insolence and power of *Compulsors*, he further ordain'd, that the Tributes, for the time to come, from the beginning of the twelfth Indiction, should not be gathered by any *Palatine*, or any Minister of armed power, as he words it, but by the Officers of Governments of Provinces themselves. In the last place, as he designs to give relief to the oppressed, so that the Revenue may not be impaired by the insolence and contumacy of such as are able to pay, or the Agents or Factors of great men, sheltering themselves under the greatness and protection of their Lords, he requires all such *Agents* and Factors, as also them belonging to his own *Domain*, to make their appearance before the Governors of Provinces when they go their Circuits. In case of failure, if they bring not in their dues within the year, they shall be imprisoned, and pay the double of what they were behind.

13. The only persons excepted out of this Act of Grace and Pardon were the *Senators of Rome*, and that for this reason, that nothing might be diminished of the plenty belonging to the venerable City. As he esteem'd her venerable, he

A. D.

458.

## Sect. 7.

Old Works in  
Rome prohibited  
to be demolish'd.

was put in mind this Summer of a matter, which, if suffered to proceed, would have much taken off from her Veneration. After such time as she had been waited by the *Gæths*, it had become a custom to fetch Stones and other materials as were necessary for repairing of the publick Buildings from her ancient Works; and after the late Disaster which happened from the *Vandal* some private persons made bold to apply them to their own uses. Out of his Detestation of such practices, tending so much to the defacing of the Beauty of the Place, in an Edict inscribed to *Emilianus* the *Præfæctus Prætorio*, dated also at *Ravenna* on the tenth of *July*, he forbade that Temples or other Monuments which had been raised by the Ancients for publick use or pleasure, should be touched in such manner, inflicting upon any Judge that should give such order a Mult of fifty pounds of Gold; and Stripes, with the loss of Hands upon such *Apparitors* or *Numerarii* as should obey such Orders, and not withstand them by a reasonable suggestion. All such begged Materials he will have restored. And in case any old Monument be past repairing, and it be convenient to employ the Stones, Timber or the like, upon some other Fabrick, this he will not have done till the matter be first signified to the Senate, and if the Senate approve of it, then communicated to himself. For further settlement of Civil Matters this Year, he published another Edict directed to *Basilius* the *Præfæctus Prætorio* concerning *Civitates*, and agnation or alienation of Lands, and diverse other Affairs. For calling back the *Civitates* to their Charges, he allows it, provided it be within thirty years. As for the *Collegiati*, he confirms what had been ordained concerning them in a Constitution contained in the Body of *Theodosius* his Code. This is the first Novel of *Majorianus*, as we have them joined to the said Code; but bears Date of the sixth of *November*.

14. *Majorianus* providing thus as well as he could for reformation of Civil Matters, thought he should not approve himself as a complete Prince and Governor, except he employed his Sword as well as his Pen. He thought it would make a great accession to his Glory, if he could but recover *Africa* out of the Hands of the *Vandals*, who as yet seem'd not well warm in their Seats. His desire this way so far transported him, that having put on Board of a good Fleet, considerable an Army; that he might discover the state of that Country, and how the Inhabitants stood affected to the *Roman* Interest, he is said to have disguised himself, and pretending to be sent as Ambassador from the Emperor, in order to a peace, he went to *Genesrich*, was well received by him, and when he had had the satisfaction of seeing his Treasure and Magazine, he returned to his Army, and without went and laid Siege to *Carthage*. He omitted nothing he thought would conduce to the taking of it, but fell sick during the Siege, which therefore proving ineffectual, and without success, he was glad to carry back his Army: notwithstanding all the fine words of *Silvius Apollinaris*, at the conclusion of his Panegyrick, who omits him Victory from all Quarters of the World, particularly that the *Moor* might grow white or pale with fear, *Sisa* might tremble, and the *Badrians* being first disarmed, might attend his Judgment-Seat. However the Emperor succeeded, the Poet failed not of success. For he was honoured with two Crowns or Garlands, and with a Statue in the *Forum of Trajan*, as he himself witnesseth in an Epistle to *Firminus*. Indeed he was a very good Poet considering the Age he lived in, and sought to imitate *Claudian*, but *non passibus æquis*. He married the Daughter of *Avitus* the Emperor, and was of great Nobility himself, being a Gall of that part of the Country called now *Auvergne*, which the *Averni* of old inhabited, a most powerful Nation amongst the *Celtæ*, to the whole community of whom it was wont to give Kings, and with its Confederates, to send out against the *Romans* sometimes two hundred thousand, otherwhiles four hundred thousand Men. His Father had been *Præfæctus Prætorio* of *Gall*, as he could remember, though then a Youth.

15. In the East this Year we hear little of *Leo*, but what relates to Ecclesiastical Affairs; yet though he had no present use for his Soldiers, he thought fit they should be in readiness upon any Exigent. But he took notice how many of them, though they received publick pay, betook themselves to other Employments, which drew forth an Act of State, dated on the sixth of *July*, to *Apsar*, the *Magister Militum*, wherein he declares, that Soldiers who are armed and maintained by the Commonwealth ought to be occupied only in things relating to the publick utility; neither travel in the tillage of Land, keeping of Cattel, or in Traffick, but labour in the Employments belonging to their Warfare. He charges him, that for the future he suffer no Soldier to be concerned in such matters, but be frequent at their Courts,

A. D.

458.

Novi Majorianus  
vi. d. d. d. h. h.  
Jul.Majorianus in  
vain besiegeth  
Carthage.Novi Majorianus  
vi. d. d. d. h. h.Novi Majorianus  
vi. d. d. d. h. h.Nisi  
virescere timore  
virescere timore  
Sisa tremit  
et c.Lib. 9. c. 16.  
Vide Possidit  
tum Romanum  
in Gæthia  
Gallia, c. 105.L. 15. de Re Militari  
c. 1. d. d. d. h. h.The Scavins  
were excepted  
out of it.

was

Se<sup>ct</sup>. 7. hours, by the daily exercise of their Arms to prepare themselves for War. If a-  
ny of the Military Judges should depute any of them to serve in publick Houses,  
or Lands contrary to this Imperial Order, or in other Services, as well such Of-  
fendor as he that receives the man shall for every Soldier forfeit a pound of Gold,  
and that presently to be levied." This Law bears date this Year, as we said, and  
the next that follows in order in the Code is much to the same purpose, though it  
hath no date of either day or year; but it is said to be of Leo's making, and di-  
rected to *Dioforns*. It also prohibits Military Men to take upon them Civil  
Cares; or if they have so done, they shall be deprived of the Military  
Service, and all Privileges, and incur the Emperor's Displeasure.

16. But another thing happened this Year, which the Citizens of *Antioch* had  
sad cause to remember. *Evaristus* writes, that in the second Year of the Reign of  
Leo a great Earthquake fell out at that City. That before it began, some of the  
Inhabitants were seized with extraordinary madness, such as seemed to exceed all  
Fury of wild Beasts, and to be the Prelude to that Calamity which followed on  
the fourth day of the Month *Gorpheus*, which the Romans called *September*, about  
the fourth hour of the Night, and the fifty sixth year of the life of Leo. It over-  
turned almost all the Buildings of the new City, which was well peopled, and none  
of it forsaken or empty, being curiously built by the Magnificence of Emperors,  
who strove to exceed each others in the adornment of it. The first and second Fab-  
rics also in the Palace were cast down, the rest standing, together with a Bath,  
which having formerly been neglected, now when by the Earthquake the rest  
were choaked up, stood the Citizens in very good stead. The *Porticus* before the  
Palace were also overturned, the Palace called *Tetraphylon*, the Towers of the  
Cirque near the Gates, together with certain *Porticus* which led from them, and  
some part of the Baths of *Trajan*, *Severus* and *Adrian*; some of the Neighbour-  
hood called *Ofstratus*, together with the *Porticus* and the *Nymphæum*; the particu-  
lars of which were related by one *John* a Rhetorician. This Writer farther deliv-  
ered, how the Emperor being troubled with a sense of the Calamity, forgave the  
City in Tributes to the value of a thousand Talents of Gold, as also to the Inhab-  
itants their Tolls; and how also he took care of the rebuilding of the publick  
places. Thus much *Evaristus* probably tells us concerning the manner and time  
of the Earthquake, which he assigns to the second of the Reign, and the fifty sixth  
of this present Emperor. But whereas he placeth it in the five hundred and sixth  
after the name given to the City, and at three hundred and forty seventh after his  
Earthquake, which happened in the days of *Trajan*; let others consider of his  
Chronology.

17. We are more certain that now we arrive at the ordinary CCCCLIX  
Year of our Lord, and yet some have erred, as to the Consulship. For *Sigonius*  
makes *Ricimer* the *Patritius* to have been Consul alone; but the *Fast* and other  
Books have it *Ricimer* and *Patritius*. The mistake lay in taking *Patritius* for an  
addition of that Honour, and not for the proper name of a Man, and the Con-  
junction Copulative being wanting, such an error might easily be committed by  
that did not consult several Copies. But that which puts us out of doubt, is the  
Date of a Law made this Year by Leo, concerning the InfINUATION or registering  
of Donations. It bears date on the third of *March* from *Constantinople*, *Patricius* and  
*Ricimer* being Consuls: it's directed to *Constantine* the *Præfekt*, and imports that  
in *Constantinople* all ingrossed Donations of things whereofever they lie shall be re-  
gisted by the *Magister Censu*. In other Cities, whether the Governor of the  
Province be present or absent, whether the City have Magistrates or not, and  
there be only a *Defensor*; the *Donor* shall have free power to publish the Donati-  
ons of his Goods or Estates whereofever lying, either in the Court of the Govern-  
or of the Province, in the Office of the Magistrates, or of the *Defensor* of each  
City, as he himself shall please. As the Donation it self is founded upon the  
meer will of the Donor, so it is declared lawful for him to intimate his Donation  
where he shall please in the forenamed places: and such Donations so published  
and insinuated in divers Provinces and Cities shall be of firm and perpetual  
strength and value. "The latter part of this Constitution was afterward abrogated  
by *Amalarius*, who would have all Donations to be registed by the *Magistri*  
*Censu* only; for their more certainty.

18. The CCCCLX Year of our Lord succeeds, known by the Consulship of  
*Maximus* and *Apollonius*, and for very little else, except it be another Law made this  
Year by Leo, concerning the number and Sons of Advocates, what persons they should

Se<sup>ct</sup>. 7. should be, and how created. It bears date on the Calends of *February*, and is  
directed to *Finian* the *Præfekt* *Prætorio*, whose Court being furnished with one  
hundred and fifty Advocates, it prohibits him to add any more to them under pre-  
tence of taking in *Assessors*. And for the time to come, when there shall be occa-  
sion to make any new ones, it shall not be done except first in the examination  
of the Governor of the Province, it be recorded in what Province he was born,  
and that it appear that he is not obnoxious to the state and condition of a *Cohor-  
talis*. If the Governor of the Province be not to come at it, it shall be done be-  
fore the *Defensor* of the Town. Besides the Professors of Law shall swear upon Re-  
cord, that these their Scholars, whom they would have preferred, are furnished with  
sufficient knowledge of the Law. The Sons of Advocates shall be preferred  
before other *Supernumeraries*. And in conclusion, such as shall be found to be a-  
bove the number of an hundred and fifty, in this Court may be allowed to plead  
before the *Præfekt*, the *Præfektus Augustalis*, the *Comes* of the *East*, the *Vic-  
cars*, or before the Governors of Provinces."

19. In the next, or the CCCCLXI of our Saviour, *Severinus* and *Daga-  
laiphus* were Consuls. It's too memorable in this one thing, that *Majorianus* the  
Emperor was now murdered at *Dertona*. He had the Year before thoughts of re-  
newing the War against the *Vandals*: which, that he might do with more success,  
he procured the *Goths* to join with him by virtue of the League contracted with  
them, which struck *Genseric* with such apprehension, that he desired peace.  
*Majorianus* having no work now in the South, turned himself Northward, and  
went into *Gall* to settle matters in that Province. Here from *Sidonius Apollinaris*  
we learn that he celebrated the *Circenian* Games at *Arles*, and made a magnificent  
Entertainment to his great Officers, at which, the Relator himself was one of the  
Guests. On the left Side, or Horn, as he calls it, lay *Severinus* the Ordinary Con-  
sul, a Man, he saith, amongst the great Stirs and Commotions of Princes, and in  
the unequal state of the Common-wealth, ever of equal Grace and Favour. Next  
to him *Magnus*, formerly *Expressit*, now *Escaupit*, a person equalling his  
doubled Honors. *Camillus*, his Brother's Son, lay behind him, who by passing  
thorow two Dignities himself, had added lustre to the Preconfulship of his Father,  
and the Consulship of his Uncle. *Paonius* was placed next to him, and after him  
*Athenius*, a Man of Law, exercised in the variety of times: *Gratianensis* was  
the next, who, though in Dignity he came below *Severinus*, yet preceded him in  
Favour. And below all lay *Sidonius*, then *Comes*, the Title the Emperor gave him  
in their merry Discourse, which, though he relates, it is not pertinent for us there-  
in to follow him, though thus much, to take notice of the persons in favour at this  
time, and their manner of eating, still the same with the ancient *Roman*, of lying  
upon Beds. But there wanted other persons, which, had they been at this Enter-  
tainment, *Majorianus* might have had cause to be more merry. For while he  
was absent, composing the Affairs of *Gall*, a Conspiracy was hatched against him  
by *Ricimer* and *Severus*, both *Patritius*, who agreed, that *Ricimer* should de-  
prive him of his life, and *Severus* take upon his Empire; for the *Barbarians*, as  
some believe, had not the confidence to assume the Purple himself. In the mean  
time *Majorianus*, that he might not be idle, endeavoured to drive the *Mans* out of  
*Gall*, being nothing so strong either as the *Franks* or *Burgundians*, but they to di-  
vert him, invaded *Italy*, which he was then obliged to relieve. This gave advantage  
to the Conspirators; for when the Emperor was come to *Dertona*, *Ricimer* either  
sent for, or without orders, there met him with the Forces under his command,  
and compelling him first to put off the Purple, in conclusion murdered him at the  
River *Hyra*, to the utter Ruine of the Western Empire. The Empire indeed had  
long been in a dying condition; but so great were the Abilities and Industry of  
*Majorianus*, that the gave hope of Recovery under his Hand, though he being  
removed, it proved but a lightomeness before her death. The Feat being done,  
*Ricimer* returned to *Ravenna*, and there the Soldiers, being prepared before hand,  
created *Severus* Emperor, without any Orders received from *Constantinople*.

20. The Year following, *Severus* invaded the Consulship, as he had done the  
Empire, and bore the Title, together with Leo, who now took it the second time,  
in the CCCCLXII Year of our Lord. And little else beside their Consulship  
this Year is notable; or if any thing of great moment happened, it is buried in  
oblivion for want of some faithful Historian to transmit the Records. Yet we  
are told, that now *Genseric* renewed his Hostility against the Islands of the Em-  
pire, and raged according to his wonted Lust and Pleasure; and that *Ricimer* op-  
posed

A terrible  
Earthquake at  
Antioch.

Leo published  
a Law for the  
registering of  
Donations.

Majorianus set-  
tles Matters in  
Gall.

Murdered by  
Ricimer.

Severus Empe-  
ror.

A. D.  
461.  
Severino &  
Dagalaiphus  
Coll.

Lib. 1. p. 11. ad  
Monim.

A. D.  
462.  
Leo A. 2.  
L. 1. c. 2. Severi  
Coll.

A. D.  
458.

L. 15. c. 1. d. 1. c. 1.

A. D.  
459.  
Ricimer &  
Patritio Coll.

L. 30. De Don-  
ationibus, Col.  
1. c. 1. d. 1. c. 1.

A. D.  
460.  
Maximo &  
Apollonio  
Coll.

L. 32. c. 1. d. 1. c. 1.

Sect. 7.

posed him as he found, or thought convenient. *Theodorich*, King of the *Goths*, on the other side was impatient of the Repose he had lately enjoyed from War, and to work he went with *Ravennius*, a great Officer of *Severus* in those parts, whom he fo wrought upon, that he betrayed into his hands the noble and wealthy City of *Narbonne*. And about this matter a great War is reported to have followed in *Gall*, and a meer inarticulate Report there is of it, nothing certain as to particular Councils or Accidents, being known. A fuitable Story we have of the Country Men of *Theodorich*, being *Goths* of the East, or *Offrogoths*, who had their Seat at present in *Pannonia*. Their Kings had covenanted with *Martian* the late Emperor for a certain sum of Money to content themselves, and sit down without any farther Attempts, for mending their fortunes; but this Money *Leo*, who now reigned at *Constantinople*, forgot, or to be sure omitted to pay them. Yet were they to good natured, and to obedient to the Law of Nations, though still accounted *Barbarians*, that they would not make War before they had denounced it, nor denounce it till they had first complained, and demanded just satisfaction. They sent their Ambassadors to *Leo*, who coming to Court, found not that Reception they expected; but on the contrary they found one of their Nation of the *Goths*, *Theodorich*, the Son of *Triarius*, flourishing there in great favour and Splendor, with a noble Train, and fuitable allowance. They returned with indignation, and communicated it with the report of their Embassy to these that sent them, who took it in disdain, that they should be thought inferior to him as to Dignity. Acted by the heat of this passion, they invaded *Illyricum*, and put those Territories of the Eastern Empire into such Distress, that *Leo*, fearful whether their animosity might proceed, made them amends, and quieted their minds by Ambassadors of his own, by paying the Arrears of their Pension, and ingaging for the future to do it; by which course the peace was renewed, and for an Hoilage thereof he received from them another *Theodorich*, the Son of *Theodoric*; who fo improved his time in the knowledge both of Peace and War, that hereafter we shall hear abundance of this Improvement.

The *Offrogoths* tumultuous.

Bajazir now Consul.

His Execution.

He was also Praefect this Year.

A. D.  
462.A. D.  
463.

Vibiano &amp; Bassus Cons.

Lib. 1. c. 13.

Sed inter has quoquequam suspensam, tametsi non moris &amp; gentis potius quam legem suavitatem.

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He was also Praefect this Year.

Leo makes Zeno his Vicegerent.

Ricimer despoiled Severus.

A dreadful Fire at Constantinople.

appears from a Law of *Severus* directed to him on the tenth before the Calends of *March* with these Titles. This was for repealing some thing ordained four years before by *Majorianus* concerning Widdows, and leaving them to the direction of former Laws, so as after the Death of their Husbands they should only have the *Ufufruits* of what was settled upon them, and of that dispose as they pleased, but not of the main stock, nor to this or that Child, as they thought fit: yet should they not be bound to give security to their Children, this seeming grievous and unreasonable; for it sufficed, that if they married again, their Husbands Estates became engaged, if not what they possessed otherwise was obnoxious in case of imbezement, as by this and former Ordinances was provided. In the East, *Leo*, it's said, made *Zeno*, his Son-in-law, his Deputy, as it were, or Vicegerent. And little else of Civil Concernment we find transacted at *Constantinople*, except it be an Edict directed to *Eufebius*, the *Praefectus Praetorio* of *Illyricum*, dated on the same day as the other of *Severus*. This gives him the choice of the Fiscal Advocate, who now should continue for two years, and not be annual as lately had been practised: and it confirms to the Body of Advocates all privileges granted to them by former Princes.

23. The following Year is characterized by the Consulship of *Rufinus* and *Olybrius*, being the CCCCLXIV of the Ordinary Era of our Saviour. Italy had been the former Year in repose; but in *Gall* the Barbarous Nations made great disturbance. For *Theodorich*, King of the *Goths* managed his matters with such industry, that it provoked *Beorgor*, King of the *Alans*, who then inhabited also part of that Country to such emulation, or fear, that gathering considerable Forces together, he passed over the *Alpes* this Winter, and invading *Liguria*, left nothing untouched, which the power of his Arms could reach. This gave such Allarm to the Southern parts, that *Ricimer* was ordered with what Force he could make, to oppose the Growth of this Calamity. And he did it to such purpose, that we are told, that no Expedition had better succeeded to the Roman Interest a long time before. For attacking the *Barbarians* at *Bergomum*, on the sixth of February, he not only defeated their Army, but killed their King in Battle. But whether this happened well or ill for the Empire cannot well be said; for the Emperor it did not. For, the General having formerly taken audaciously upon him to unmake and make Princes at his pleasure, now more puffed up with pride upon his success, began to despise *Severus*, as one of his own setting up.

24. The next following, or the CCCCLXV is more, or rather too much considerable both for the effect of the pride of *Ricimer*, and another very calamity which now happened. For this Year in the Consulship of *Bassus* and *Hermimerich* fo great a Fire there was at *Constantinople*, as never was exceeded except by that which happened here lately at *London*. This Calamity, if *Eugarius Hermimerich* fo judge, was far more grievous than the former Earthquake. It began in that part of the City lying near the Sea, and called the *Ox-freet*. He tells us of a report, how a wicked and malicious Devil in the form of a Woman, or a certain poor Woman at the instigation of the Devil, in the Twilight, going to the Market with a Candle in her Hand to buy Fish, left it on the Stall, and went her way. That the flame of the Candle taking hold on Flax, kindled fo exceeding great a Fire, that in a moment it consumed the Buildings in the Market Place, and caught hold of the Houses adjoining, not only such as might easily be set on fire, but the Structures also raised of Stone, and consumed them to Ashes. The Conflagration by some is reported to have lasted four days, by others fix, and none being able to put a stop to it, it brake through the middle of the City, consumed from the Northern to the Southern Quarter all Buildings, for five Furlongs in length, and fourteen in breadth, left no Houses, either publick or private, Pillars, Arches of Stone, or Vaults unburnt to the very Foundations, piercing Flint and the hardest Metals as easily, as if they had been Stubble or Straw. On the North Side towards the Haven, a lamentable Desolation was to be seen from the *Ox-freet* to the Old Temple of *Apollo*; on the South from the Haven of *Fulian* to the Temple of *Concorda*, in the middle of the City from the Forum of *Constantine* to that of *Taurus*: a most dreadful sight. The goodly Edifices that had stood lately to behold, the costly carved Timber heretofore very Majestical to the eye, were now, if any thing remained, become like craggy Hills and Rocks; fo that no passage could be found for heaps of deformed Rubbish, neither could the owners themselves discern the Bounds of their Possessions; nor say, that this is that which stood thus or thus before the Fire caused this dismal alteration.

X x x x

25. About

A. D.  
464.

Rufinus &amp; Olybrius Cons.

A. D.  
465.

Bassus &amp; Hermimerich Cons.

Lib. 2. c. 13.

## Sect. 7.

Other prodigious Calamities.

Leo published a Constitution for rebuilding of Constantinople.

Interpreted afterward by Zeno.

25. About the same time (this Writer continuing the series of Calamities adds) when that *Scythian* War raged, which was moved against such Romans as inhabited the Eastern Parts of the Empire, *Thrace*, the *Hellefpont*, and *Ronia* were wonderfully shaken with Earthquakes. And no less distressed were the *Cyclades*, as also the Islands *Cnidus* and *Coo*, wherein many Buildings were overturned. Moreover *Prifcus* wrote, that at *Constantinople*, and in *Bithynia* there fell such Storms of Rain, that for the space of three or four days it poured down like whole Streams or Floods, the violence whereof beat down and levelled Mountains, the Villages were reduced near to ruins, and in the Lake *Boone*, not far from *Nicomedia*, by reason of the Dirt and Filth thither by the Waters conveyed, there appeared Islands. But these things came to pass afterward. Yet as ill accidents either in morality or otherwise, ordinarily give occasion to wholesome Laws, *Leo* was so concerned at this dreadful Fire, as he published a Constitution concerning Buildings at *Constantinople*, to prevent the like. This Constitution is not now extant, neither could we have certainly known what it was, but that *Zeno* his Successor some years after, finding the Building of the City to go slowly on, by reason of controversies arising about the interpretation of some part of it, was forced to publish a new Edict, directed to *Alamantius* the then *Præfect*, which being penned in *Greek*, instead of interpretation, received rather obscurity from several who attempted the publication in several Editions of the Code, till it was undertaken by the Learned *Contins*.

26. *Alamantius* having made report of the Inconveniences arising from the ambiguity of that aforesaid Constitution, received answer, that since such time as the Emperor had enjoyed peace, being desirous every way to secure his Subjects, as well from internal as external Quarrels, he had applied his mind to the making of various Laws, amongst which he would also have this received, which should clearly and plainly demonstrate, both what his *Magnificence* had suggested, and define most cautiously all ambiguities. That he had not much receded from words of civil signification, but used the more known amongst the vulgar, so that whoever should light upon it needed not the help of an Interpreter. That from the Relation of his *Greatness*, he had understood how the Divine Law of his Father *Leo* of immortal memory, which he had made in relation to those that would build in that glorious City, was ambiguous in some of its parts by reason of the naughty opinions of Interpreters. With this Preface he introduceth the Law in self which declares.

27. In the first place that such as would rebuild their Houses shall not exceed the ancient form (neither any shall build upon new Foundations) neither take away light or prospect from their Neighbours contrary to what of late had been ordained. But in case of any stipulation or agreement whereby leave is obtained to do either, or both, it shall be lawful to such persons to make use freely of such Agreement. But whereas the former Constitution, where it required that the distance of twelve Feet should be observed by Builders betwixt one House and another, adding these words *More or Less*, and so by a doubt seemed to take away an Ambiguity; to remove all such doubt and ambiguity both, he expressly requires, that twelve Feet be left, to be measured from the Foundations, and the same distance to be observed, as to the rest of the Building to the very top. Any one observing this Rule, may build as high as he pleaseth, and make what Windows he thinks fit, either for light or prospect. Provided, that no man shall have liberty to intercept the direct prospect of his Neighbour to the Sea, which his House formerly afforded him, fitting or standing. And as for Gardens and Trees, he resolves to add nothing to what formerly had been Law. If so be, that the Ground was such, that the Houses could not be built at twelve Feet distance, then should not the Buildings be at all raised higher than formerly, except at least a distance of ten Feet were left; neither should any prospective Windows be made, except they had been formerly in use. But Windows for light might be made at six foot distance, without any false pavement, or flight used for enlarging them more than they ought to be.

28. As in the former Constitution was enacted, he gives leave for Houses that were to be rebuilt, to be raised an hundred foot high, though they do intercept the prospect of the Neighbours into the Sea. And farther declares, that if a space of an hundred Feet be left between, it shall be lawful to build either upon old, or new Foundations to an height that may take away such prospect. And from Kitchens and other places of conveniency and passages it may be free to take

away

A. D.

465.

11th c. 14.

## Sect. 7.

away such prospect, though the Buildings be raised within an hundred Feet, so as the space of twelve be preserved, and within the space of twelve too, if it be done by agreement of the Parties. For Bow Windows or Lattices made to receive Light, called *Solaria*, and *Balconies*, called *Maniana*; he forbids the former to be built of Wood and Boards alone, but after the manner of those called *Romannæ*. Commands that ten Feet be left betwixt those that stand one against another, or opposite; and if this cannot be by reason of the straitness of places, that then they be not built opposite, but transverse one to another: or if the passage it self betwixt exceed not ten Feet, then shall no *Solaria*, or *Maniana* at all be raised. Moreover such as shall be built according to due form shall be fifteen foot raised from the Ground, and their Pillars, whether of Wood or Stone shall not rise perpendicular, neither their Walls, left the Air or High Ways be stopped. For prevention of Fire he prohibits Stairs to be raised from the ground of narrow places to mount up to them. If such forbidden Works be done, they shall not only be demolished; but the owners of them shall incur a Fine of ten pounds of Gold, and the Architect or Undertaker ten, and if poor, shall be banished the City.

29. In the next place he prohibits, that the places betwixt the Pillars in the standing Rows in the *Porticus* and *Stations*, betwixt the *Milium* and *Capitol*, be choaked up with Buildings, solid Boards, or other things. That the Edifices permitted to be there, in breadth exceed six Feet, the Wall toward the Street being therein comprised, and in height seven. To be sure, he will have free passage lie through the four Ranks of Pillars from the *Porticus* to the Streets, and the Shops there built to be adorned at least on the outside with Marble, so as may conduce to the Beauty of the City, and delight of Passengers. In other Regions he leaves it free for Shops to be raised betwixt the Pillars, as shall seem profitable to the City, and convenient to the *Præfect*, all equality being observed, so as what is permitted to one be not prohibited to another. This he would have practised to prevent Machinations and Designs of Calumniators against honest and well-meaning men. For he cannot but take notice how many are lured out of envy and contention, rather than for any real injury done, and forced to leave off their Building, and spend their Money at Law which had been laid aside for that purpose, and though they had obtained a sentence, yet still to be hindered from proceeding, by force of an Appeal, and expectation of the fatal Days, to no other purpose than that their Adversaries may take pleasure in their Disappointments.

30. To prevent such mischief, he declares, that in such cases where Appeals lie, as soon as the cause is transmitted in Writing to the Judge, it shall be lawful for either party, without moving the ordinary time of introducing Appeals, either with his Adversary, or alone, to repair to the Court of him the *Præfect*, and the Adversary being called, if absent, to put an end to the controversy without delay, lest Winter coming on, by expectation of an end to be put to long continued Appeals, intolerable Damages be sustained. But in case any will appeal from sentence of the *Præfect*, a Consultation, as they call it, shall instantly be made, (viz. a sort of Appeal) for a more accurate consideration of the sentence; and that with speed in the Emperor's Palace. And he will have all such as give any hindrance to Builders to know, that if they fail in their cause, they shall both make other just reparation for the loss, and pay the value of such materials as have been spoiled by delay of the suit. In like manner, such as have presumed unjustly to build, if they be caught, shall make reparation to those that prohibited their Attempt.

31. All Controversies hence arising he will have determined before the *Præfect* alone (in ordinary course) neither shall any of the Illustrious Magistrates hear any of these Causes, nor any person concerned be permitted by prescription of *Militia* or *Forum*, to evade the Judgment given, or to escape the Condemnation, as to Costs and Damages, made by a ward of the most glorious *Præfect* of the City, or a Cognitor deputed by him. He gives it in charge to his *Magnificence*, that no Undertaker, Carpenter, or other Artificer leave any work imperfect, that he hath once begun, but that, receiving his just pay, he be constrained to bring it to perfection; or else make full satisfaction for all Damages to the party concerned in the Building. And if he be so poor as not to be able to go through with it, he shall be beaten with Rods, and banished the City.

32. But if any person will perfect what hath been begun by another, he shall

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The Law de-  
clared univer-  
sal by Jusli-  
an.Sicut a poison-  
ed by Ricimer.A Law of Leo  
for encourage-  
ment of civil-  
ity Curiales.An incorp-  
ation in the  
West.The Actions  
of Genseric  
about this time.

in no wife be hindered from so doing, as hath been practised heretofore by certain Artificers and Undertakers, who would neither make an end of what they had begun themselves, nor suffer others to do it, to the intolerable loss of those who were concerned to have their Houses built. In the last place, if any refuse to perfect a Work merely upon this Account, because another had begun it, he shall incur the same penalty as he that quitted it imperfect. This is the Constitution of Zeno made to explain that of Leo, and remove those Rubs that lay in the way, and hindered the Rebuilding of Constantinople, the prudence and seasonableness whereof were better to be discerned at that time when the motives were better known and discerned. But it was thought so proper and fit afterwards by Justinian, that when objection was made, that it was local and appropriate to the City of Constantinople, by a Rescript directed to John the Prefect, he declared it to be of force also in the Provinces, and that it should be observed for Law by the respective Governors. And after his time, as by the Basilia appears, it continued to be of the same force, what concerns the prospect to the Sea excepted, which only held at Constantinople, and the places adjoining. This is chiefly to be observed, that according to this manner of Building, for prevention of Fires the Houses were Insular, as it was termed, and if possible, distant twelve Feet one from another.

32. This Conflagration at Constantinople was very great and terrible, but a mischief greater than it raged in the West, which brought ruine and desolation both to many Countries and Cities. This was that Impudent and fawcy boldness of the great Officers, particularly now of Ricimer, who took upon him to make and unmake Emperors at his pleasure, which being frequently done, the Enemies of the Empire took heart and occasion to exercise their Hostilities, for if a Man of Courage and Resolution arrived at the supreme power they concluded his Reign would be but short, and the obstacle ere long removed. Ricimer, as we said, had begun to despise Severus, as one of his own setting up, and now resolved to remove him; yet something there was, either a sense of his crime, or some other thing, which hindered him from doing it in a publick manner. For, it's said, the Feast was done by poison, though by the contrivance and deceit of Ricimer; and toward the latter end of the year it was, though we know not the certain time; for that he was alive on the twenty fourth of September we are well enough perswaded from the Date of an Edict he gave out to Basilus, on that day, with the Titles of Prefect and Patritius. The subject of it is of smaller importance than the Date, as to our knowledge, though then of such consequence as to be published by reason of a publick complaint made by the Mouth of Ausonius, a person of illustrious condition. Of more publick concernment seems another published by Leo on the ninth of November following, for encouragement of such as would generously and of their own accord take upon them Offices and Employments in the places where they lived, without any obligation, by reason of their Birth and Condition so to do. It, in justice, declares them and their Children free from the Nexus, or sort of Bondage to which others were obnoxious, being, only answerable for such profits of the Corporations as they receive; and further, as encouragement, that if they discharge all the Functions of the Curiales, they shall, if they think fit, for their kindness and liberality have the Style and Title of Fathers of these Cities or Places wherein they became voluntary Munifices.

34. The Year following is as it were maimed and imperfect in its Characters, having but one Emperor and one Consul. Leo in the East bore the Title of both jointly, taking upon him the Consulship now the third time, without any Colleague, the Inter-regnum continuing in the West all this Year, which was the CCCCXLVI of the ordinary Era of our Saviour. And it procured very heavy hearts to the poor Italians, to whom it was something uncouth to have no Prince in that Country which had given original to the Empire, and besides that, they were, notwithstanding the resistance made by Ricimer (who took all upon him) continually in Allarms, by reason of the restless spirit of Genseric, concerning whom that we should make some particular Inquiry what he did since we had so much occasion to speak of him, the History of this time is not in any thing more concerned. And here Procopius helps us otherwise at a dead lift. He informs us, that after his sacking of Rome, and carrying away the Emperess with her Daughters, he ceased not to attempt many other things. For besides Carthage, he made naked all the other Cities of Africa, by depriving them of their Walls, that if the Natives should side with the Romans, they might have no encouragement from

A. D.  
465.L. 13. d. 10. tit.  
De Civil. Synt.  
p. 11. c. 1.  
L. 1. c. 1. d. 1.  
L. 1. c. 1. d. 1.  
L. 1. c. 1. d. 1.Nov. 2. Severi  
de corporat.  
D. 7. c. 1.  
Offic.L. 1. d. 1. tit.  
De Civil. Synt.  
p. 11. c. 1.  
L. 1. c. 1. d. 1.  
L. 1. c. 1. d. 1.A. D.  
466.L. 1. c. 1. d. 1.  
Offic.L. 1. c. 1. d. 1.  
Offic.

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Leo pitched  
upon Anthemius.

fenced places to make disturbance; neither if the Emperor should fend over an Army, his Soldiers should find harbour to manage thence a War against the Vandals. And this at present he was thought to do with great prudence and foresight; but in the following Age when these naked Cities were without any trouble or experience taken by Belisarius, then he was laugh'd at for his policy, and his wisdom accounted folly: so various are the opinions of Men, and regulated by event, concerning the designs of other persons.

35. But this being done to the Cities and fortified places, all men that were considerable for Reputation or Wealth, Genseric delivered into the hands of his Sons Honorich and Genzo to be treated no better than Slaves; for Theodorus his youngest was already dead without issue left of either Sex. From others of the Africans he took the most and richest Grounds, which became afterwards known by the name of the Portion of the Vandals, the true and ancient owners being permitted to go whither they would in a free, indeed, but beggarly condition. But what Grounds he bestowed either on his Sons, or other Vandals, he made free from Burthens, which he laid so heavy upon the more barren, which were left to their former Lords, that nothing did they gain from their former possessions. Hence came it to pass, that many fled their Country, and as many were put to death under pretence of various crimes, whereof the principal was, that they were fain to hide their Money. But so lay Africa groaning under most heavy Calamities. For he not only placed his Vandals, but Alans also in Garrison, in convenient places under no fewer than eighty Officers, who bore the name of Chiliarchs, or Commanders of a thousand Men; for though his Army of both Nations consisted really of no more than fifty, yet he would have it bear the reputation of eighty thousand. But the number of his Soldiers increased with time, as the Vandals increased in their progeny, and other Nations were taken in, all which (the Alans as well as others) the Moors excepted, united, and grew into the common name of Vandals. And by the assistance of the Moors having increased his strength, after the death of Valentinian, every Spring he infested Sicily or Italy itself, some Towns subjecting to Slavery, demolishing others, and exhausting all by his Rapines, so long, till being driven thence by that desolation and want which he himself had brought along with him, he turned his Face toward the Quarters subject to the Emperor of the East, waiving all Myricum, Peloponnesus, the adjacent Islands and other parts of Greece, or which bore the name thereof. Thence he returned back to Italy and Sicily, and took away what he found, if anything he had left. It was reported, that being put to Sea out of the Haven of Carthage, when he was asked by his Pilot where he intended to make War, he answered, against those with whom God was angry. So did he run upon all in an hostile manner, without any cause or provocation. And so much Procopius concerning his Depredations, who adds, that the Emperor of Constantinople, out of indignation, rigged a great Fleet against him. But this was afterward.

36. However, we may easily believe them that write his Depredations to have continued, and possibly with greater rigour, during this Inter-regnum in the West, which not only might embolden the Enemies of the Empire to infest Italy, and the Islands, but also other Provinces which still continued to be languishing Members of it. The Senate now every day at Rome bore more heavily their Condition, and the death of Severus, who had given them good hopes of making head against, and giving a check to the infolence of the Pyrate. They did as soon as convenience would permit, give notice of it to Leo, in whom alone at present the Majesty of the Roman Name resided, praying him, that in these times of so great hazard he would procure them a Prince like to Majorianus, or else in a short space the Empire of the West would be quite extinguished. The case seemed difficult, and it's said, that Leo spent all this Year in deliberation. There was then with him at Constantinople, Anthemius, the Son of Procopius, and Nephew of that Anthemius who had born the Office of Consul, together with Stilicho, and was the Son-in-law of the late Emperor Martian. This Anthemius bearing the Dignity of Magister universæ Militiæ and Patritius, had waged War with good advantage against the Alans, and for his Wealth was otherwise very considerable. To these Qualifications the favour which Leo bore him, added so much weight, that in consideration of his Nobility, and other Defects, he thought him the fittest person he could chuse, and resolved to make him his Colleague in the Western Empire.

37. The Year being over which had neither Consul nor Emperor in the West, the CCCCXLVII of our Lord succeeds, which according to the custom was opened

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bapt. Off.

Sec't. 7. opened by the Consulship of two *Flavii*, *Pulsus* and *Fohn*, and was further signified by the Legitimate Creation of a new Roman Emperor. That this was *Anthemius*, we may easily guess from what we have already said concerning the purpose of *Leo*, who was solicited, as *Evagrius* writes, by an Embassy sent from the *Romans*. And not only *Evagrius*, but *Sidonius Apollinaris*, though in a Panegyric to this *Anthemius*, writes of his being fought for, and desired by the Senate; for the Members of it we suppose him to call by the name of *Proceres*, to whom in it he directs his speech. And from him it also appears, that there was some private agreement betwixt *Ricimer* and *Anthemius*, if not the Emperor himself, that *Ricimer* should marry *Anthemius* his Daughter; for after the Poetical way of *Claudian*, whom he imitates, he makes *Rome* at the desire of *Italy* to take a Journey into the East, and to desire of *Constantinople*, that in recompence for all the losses he had sustained by her, she would grant her *Anthemius*, who by his Daughter should make himself happy in having *Ricimer* for his Son-in-law, and hereby a private alliance be added to the publick. *Anthemius* was not slack to take the opportunity, but came to *Rome* on the twelfth of *April*, where he was received with universal applause, and owned for *Augustus*. And according to agreement he delayed not for his own security, as well as truth, to give his Daughter in Marriage to *Ricimer*. And the Nuptials were celebrated with all solemnity possible, and with excess of Jollity, as *Sidonius Apollinaris* lets it out, who terms it *Occupatissima Vacatio*, or a most buxle idle time wherein all serious matters were silent, except the Wedding it self, which must needs be such, seeing, as he saith, *Perennis*, the Daughter of the Emperor, was coupled with *Ricimer* the *Patrician* in, or for hope, of the publick security. This *Sidonius* was present at himself, coming then to *Rome* on his Message from his *Avernus*, being kindly entertained, as he writes to his *Horonius*, in a second Letter, in the House of *Paul*, a person of *Prefectorian* Rank, venerable, he saith, for Learning and Sanctity. No man, he adds, was more excellent than he in all kinds of Arts. He falls into a rapture in consideration of his Abilities, and concludes his short Character with this full expression, that he had this excellence above all his Studies, that *He had a Conscience superior to that Eminent Knowledge*. To strengthen the Empire fully, if possible, by alliances, *Leo* the Emperor is reported also to have given *Leontia*, his Daughter, in Marriage to *Martian*, the Son of *Anthemius*.

Consul the second time alone.

Arvandus Prefect of Gall.

37. For the Year CCCCLXVIII, *Anthemius* the Emperor was Consul alone the second time, thirteen Years having now intervened since, with *Valentinian*, he was first graced with this Dignity. *Sidonius Apollinaris* being still in Town, *Basilus*, his great Friend he so much admires, persuaded him to stir up his Muse, recollect his Fancy, and write a Panegyric in honour of the new Emperor and Consul, which he did with commendation enough, though it breaks off something abruptly; and for a reward, at the instance of *Basilus* he was honoured with the Prefectship, though whether it was a real and Active one, or Titular, and by way of Codicils, we may at least question. Were it Active, it must be of *Gall*, his Country; but there *Arvandus* now executed that Office, though not long he continued in it. For while *Sidonius* still resided at *Rome*, he was so vehemently accused of high misdemeanours by several illustrious persons, that he was called up to answer his heavy charge of Treason they laid against him. Hereof, and of his Trial *Sidonius* hath left us a pithy Description in an Epistle written to his Friend *Vincencius*, which containing a form of the ancient Judicature, it is very proper here to be inserted, and it shews the Generosity of the Describer. For, he begins with a Declaration, That he was really vexed at what had befallen him, and troubled at his Condition; this being over and above the heaps of Praise, due to the present Emperor, that it was free for one, openly to make profession or demonstration of Love, even to such as were condemned to capital punishment. For he was the Friend of *Arvandus*, even more than the fickleness and variety of his humour would bear; which was sufficiently attested by the ill will he had contracted in his behalf, whereof the flame had singed him, being a little unwary. But that he continued in his friendship he saith he ought to himself. As for *Arvandus*, he would complain freely, but not insultingly, that he used no diligence to persevere, because despising the advice of his faithful Friends in all things he became the flouting stock of fortune. But in conclusion, as to this point, he admires not so much that he fell, as that he stood so long. O how often, saith he, did he complain of adverse Fortune, when we lamented that one time or other his temerity would give him some heavy cause so to do, concluding not himself

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Lib. ii. c. 6.

hic est proceres  
penitus intra  
Et quia vider  
amur, &c.

Adit pater  
privatum ad  
publica sedes  
Sic facti du  
tibus gemit  
Ricimer beatus  
Nobilitas  
in status off  
vultu regis  
60, &c.

Lib. i.  
Ep. 1.

Lib. i. c. 9.

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Anthemio A.

2. C.

Lib. i. c. 7.

Sec't. 7. to be happy, who was judged to be so rather frequently than always. Then "A. D. 468." he declares the manner of his Government, which he doth with a Salvo to the "Reverence due to Faithfulness and Sincerity, which is ever owing to a Friend in Affliction."

How ill he managed his Office.

39. His first Prefectship he managed with great Popularity, and the second (to express his playing with the words) with great Depopulation. Being burthened with Debts, for fear of his Creditors, he grudged the Noblemen that were to succeed him: he would laugh at all their Discourse, be inquisitive into their Designs, despise their kind offers, be suspicious when they seldom came to him, and when they did often attend him, would disdain their Company, till being surrounded with publick hatred, and girt about with a Watch before ungirt from his power, he was laid hold on, and brought away to *Rome*. In his Voyage he was puffed up with a conceit, because he had prosperously sailed by the boisterous Coasts of *Tuscia*, that the Elements favoured, and, as it were, waited on his Innocence. In the Capitol he was lodged with *Flavins Aelius*, the *Comes Sacri Largitionum*, who bore respect to the Dignity of the Prefectship, as yet half-smoking in him. In the mean time the Messengers of the Province of *Gall*, *Tornantius Ferreolus*, a Prefectorian, and the Nephew of *Syagrius* the Consul, by his Daughter, *Thaumasus* and *Perovinus*, men of great Abilities both in knowing and speaking, and to be reckoned among the prime Ornaments of their Country, arrive with their Commission, and instructions to accuse him in the name of all the *Galls*. Amongst other things given them in trust by the Provincials, they brought a Letter intercepted, which was laid by *Arvandus* his Secretary, upon his apprehension, to be dictated by his Master, whereby he diswaded the King of the *Gaths*, to whom it was directed, from making peace with the *Greek* Emperor, laboured to convince him, that the *Britains* inhabiting above the *Loire* were to be fallen upon; that *Gall* by the Law of Nations ought to be divided with the *Burgundians*, with other mad stuff which would enrage a furious King, and disstate one of a mild disposition.

40. This Letter the Lawyers with heat interpreted to contain High Treason. Of it *Sidonius* and *Arvandus*, a most excellent person, were not ignorant, who accounted it a perfidious, lazy and barbarous thing to forsake their Friend *Arvandus*, now laid at, and in adversity. To him who feared no such matter they laid open the whole design, which his inflamed Enemies laboured to conceal, till the time of Judgment, that they might involve him, being unwary, and having refused the advice of his Acquaintance, in a confession by a sudden answer. They told him what they and his most secret Friends thought most safe to be done. They persuaded him not to confess the least matter; for though his Enemies pretended it was small, he would find their dissimulation very troublesome. Hearing this, he flung away, and falling into sudden reproaches, bid them be gone, as degenerate men, and unworthy of *Prefectorian* Fathers, and because they understood nothing, to let him alone with the business: to *Arvandus* his Conscience sufficed, and he would hardly confound that Advocates should plead for him in the Causes of Bribery and Oppression. They went away sad, and in confusion, as well with grief, as with the affront. For what Physician would remove reasonably when madness seizes on a desperate Man? But see! the accused person runs about the Capitol in White Cloaths, sometimes pleased with crafty flatteries, and with the babbles of flattery; sometimes turns over the Silks, Gems, and other costly Commodities, views them, as if he would barter for them, and in doing so complains much of the Laws, of the times, of the Senators, and of the Prince, because they would punish him before they heard him. A few days pass over, and a full Senate meets (as *Sidonius* found afterward, for then he was absent) and to the Court *Arvandus* goes trimmed and smooth-faced, when his Accusers in the mean time half in Mourning, expected Messengers from the *Decemviri*, and by their squalid habit took away due commiseration from the accused Party.

is tried.

41. Those that were summoned are let in; the parties according to the custom stand over against one another, and the right of sitting, before the beginning of the Process, is offered to those of *Prefectorian* Rank. *Arvandus* now by an unhappy impudence hautes and places himself almost in the Laps of the Judges. But *Ferreolus*, with his Colleagues, fare them down quietly and modestly at the upper end of the lowest Benches, and this he did remembering himself as well a Messenger as a Senator, and was afterward the more commended and honoured for it.



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In the mean time such Members as were absent arrive: the parties rise up and the Messengers propound. After the Provincial Mandate, the letter, of which mention was made, is produced, and when it is slowly reading, *Arvandus* with-  
out asking, proclaims that he did dictate it. The Messengers answer that it very wickedly appears that he had dictated it. He in a rage, ignorant of his ruin, by a second and threefold confession stabs himself; the Accusers acclaim and the Judges conclaim that he confessed himself guilty of high Treason, and he is now destroyed by a thousand rules of Law, which make it such. After all his toyl he appears pale and too late to repent of his Locacity, and also too late to understand that a Man may be pronounced guilty of high Treason, though he do not aspire to the Purple. He is presently dejected of the privilege of his double Prefectship, which he had in course exercised five years, and, not as added, but as restored to a plebeian Family, adjudged to the public Prison. Such as beheld it thought it a very sad thing that he who had lately thrust himself in so polite and Comptre Garbe amongst the Judges under the accusation of men in mourning habit, should a little after be led away under a miserable Man and yet without commiseration. For who would regard his Condition, whom perfumed and in accurate Clothes he saw led away under the common Gaole. His Sentence being hardly respited for a fortnight, was capital, and he was cast into the Iland of the Serpent of *Epidauros*, where to the grief of his very Enemies he was made fordid and despicable, and as it were spued out of the World by the Vomit of nauseating Fortune. Now by virtue of the old *Senatusconsultum Tiberianum* he draws his breath for thirty days, thinking with horror on the *Venus*, *Gemonie*, and the halter of the rugged Hang-man hourly. We, he concludes, as much as we may, present and absent, with our double our Prayers and Supplications, that suspending the stroke of the Sword already drawn, the goodness of the Emperor would banish him already half dead, though with the loss of his Estate. Whether this was granted or no, appears not from *Sidonius*. But in *Callistodorus* his *Chronicon*, the following year we find that *Aradaburinus* attempting the Empire, was by command of *Anthemius* sent into banishment. In which place *Baronius* well conjectures that instead of *Aradaburinus* or *Arvandus* as some Copies have it, *Arvandus* is to be read.

Is banished

41. How miserable was the condition of the Provincials of *Gall* at this time, who having foreign Enemies of several sorts in the Bowels of their Country, who suffered from their own Governors, who suffered as much from those from whom they expected protection as from the violence of the insulted Barbarians? Had *Sidonius* succeeded *Arvandus*, doubtless they had found relief, but we find no such matter, his power was all included in his Codicils, for that he was any more than a condicillar *Prefect* we cannot well imagine, and that of the City, from what he speaks concerning that Honour bestowed on him, which of old governed the Rights of the Fathers and of the common People; And that he executed the Office actually of *Prefect* when *Arvandus* was condemned, as one who hath written his Life tells us, we cannot find; but rather that he made a stay after his being sent for by *Anthemius* as some say he was, or rather after his Message from the *Avernus*. Who succeeded *Arvandus* is also obscure; but from *Sidonius* we find that not long after this, when he was again in his own Country amongst his *Avernus*, the Country was governed by full as good and innocent a *Prefect* as *Arvandus* was. His name was *Seronatus* of whom *Sidonius* sadly complains, though in a somewhat jesting manner to his Friend *Hecturius*, whose presence he requires to put some stop to the Carier of his Extravagancies.

Seronatus his  
Successor as  
said as he.

42. Thy *Avernus*, faith he now grone under two mischiefs; the presence of *Seronatus* and thine absence. Of *Seronatus* I say, of whose Name that I may first speak, fortune seemeth to me as precious of what was to come so to have sported, as on the contrary our Ancestors did when they called Battles, than which nothing is more ugly, by the Name of *Bella* or hand-some, and by the same contrariety when they called those Fates *Parce* which do not spare. *Carilme* himself of our Age, is lately returned from *Aures*, that all the Blood and Fortunes of miserable People of which he there did but the taste, here he might swallow. Know for certain that daily he discovers the Spirit of his long dissembled Madness. He openly envies, pitifully dissembles, is fervently proud, commands as a Lord, exacts as a Tyrant, condemns as a Judge, calumniates as a Barbarian, all the day being armed by fear, hum-

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Lib. 2. p. 1.

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gry by Avarice, terrible by his ambitious Desires, cruel by his Vanity; he ceaseth not to punish and openly to commit Theft together, and calling to him such as cannot forbear laughing, he belches out Contentions amongst the Citizens, and Letters amongst the Barbarians. Being not sufficiently initiated in the Rudiments or A. B. C. he publicly dictates Epistles, moved by his boast-  
ing Humour, and by his impudence corrects; in a manner he gets all he covets, neither doth he give any price condemning, nor doth he receive securities despairing; in Council he Commands, in advising is silent, jests in the Church, preaches at Meals, condemns in his Bed-chamber, sleeps at a Tryal, daily fills woods with them that fly away, Towns with Enemies, Altars with Criminals, Prisons with Clerks, exulting, or rejoicing, with Gaths; insulting upon Romans, jeering *Prefects*, and sporting with *Numerarii*; treaching under his Feet the Laws of *Theodosius* and propounding those of *Theodorich*; fearing old Faults, and new sorts of Tributes. Shake off, I pray, all delay, and break through that which hinders. The dying liberty of thy panting Citizens expect thee. They are resolved that whatever is to be hoped for, or to be despised of, nothing shall be done without thy guidance and direction. If the Commonwealth have no Force nor Refuge; if, as the report is, *Anthemius* the Emperor hath no Strength; the Nobility is resolved, if thou speakest the word, to free their Country or lose their Heads. So he ends this Letter; but from another written to *Gracian* a Bishop it appears, that they stood to their Resolution; for, in that, reckoning up the sufferings and merits of his *Avernus*, he relates how for their love to the Commonwealth they feared not to deliver up to the Laws *Seronatus* who was delivering up the Province to the Barbarians, and whom being Convicted, the State, afterwards, hardly presumed to put to death.

Is put to  
death.712 makes  
great prepa-  
rations against  
Geseirich.

43. So weak we see was the Roman Interest in *Gall*, and daily it decayed, while in *Affrick* it was almost quite extinct or in a manner without hope of Recovery, *Geseirich* domineering at his pleasure and making his Irons into such other places as his ambitious lust did incline him. Amongst these, we lately heard from *Procopius* that *Alypius* and *Peloponnesus* were infected by him, which belonging to the Eastern Empire, *Leo* the Emperor of those Parts took it very high Didsain, and resolved with all his might to chastise his fury. An Army he raised of an hundred thousand men, as was reported, and such a Fleet he gathered together as all the Eastern Sea could afford. He was very open handed both to Mariners and Soldiers, that no hindrance to his Design might happen by their want of encouragement; an hundred and thirty thousand Pounds of Gold were reported to be laid out. But the time of the Ruine of the *Pandals* not being yet come, he made *Basiliscus* the brother of his Wife *Verina* the Admiral of his Fleet, one who was wonderfully greedy of the Imperial Power, and who promised himself success in his Design from the friendship of *Aspar*. Now *Aspar* was an Arian in his opinion, from which he would not way be removed, and for that reason could not compass the Sovereignty for himself, but could yet advance another to it; and was begun to be suspected by *Leo* as hatching dangerous Designs. The Report went that *Aspar* fearing that upon good success *Leo* would grow bold and exert his power, advised *Basiliscus*, that he should spare *Geseirich* and the *Pandals*.

44. *Leo* that he might have greater assistance against them, had procured *Anthemius*, a man very Eminent for his Nobility and Wealth, to be Emperor of the West. *Geseirich* had used all his Endeavours to have *Olybrius* preferred, for the Alliance he had with him, contracted by his marrying of *Placidia* the Daughter of *Valentinian*; and being frustrated in his hope was now inflamed with anger, and infected all things belonging to the Empire more cruelly than ever. At this time there lived in *Dalmatia* one *Marcellianus*, a man of an honest disposition, and formerly a friend to *Asius*: Who when *Asius* was killed, revolted from the Emperor and drew others by his example into the Revolt, and none adventuring to come against him held *Dalmatia* in his own power. But *Leo* sweetening him all ways possible drew him off and sent him into *Sardinia*, now Subject to the *Pandals*, and he so succeeded as to drive them out and make himself Master of the Iland. Neither did matters worse succeed in the hands of *Heraclius* who being sent from *Constantinople* to *Triopolis*, overthrew in Battel the *Pandals* of those Quarters, took the Towns without any difficulty and there leaving his Ships, led his Army by Land to *Carthage*. Such prosperous beginnings had

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the War. *Basiliscus* with all his Fleet arrived at a Town distant from *Carthage* an hundred and eighty furlongs; which had the Name of *Mercury* from an old Temple dedicated to that Pagan Deity. And had he not on purpose loitered, but gone freight to *Carthage*, he might easily have taken it by force and brought the *Vandals* under the yoke; so great a fear of *Leo*, as invincible, had seized on *Genferich* when after the Report of the loss of *Tripolis* and *Sardinia* the Fleet of *Basiliscus* appeared, as great as ever the *Romans* had had any. But the General suffered this opportunity to slip out of his Hands.

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45. But *Genferich* failed not to make his Advantage of his Neglect. As many men as he could procure and trust he got together and filled his Ships with them; and had other Vessels in readiness which had no men in them but were swift in sailing. Then sent he to *Basiliscus* to beg a Cessation of Arms for five days, to have some time for consultation how he might best be reconciled to the Emperor; and some gave out that he sent him money to purchase a Truce. This point he gained thereby, that as he had designed, he had the wind favourable for his purpose. For *Basiliscus* either in obedience to *Alpar*, corrupted with money, or judging he did best, yielded to what he desired. Kept his Army idle and afraid for that time that might be convenient for the Enemy. Now as soon as this was come, and that the wind blew from the right quarter, the *Vandals* having what they expected, hoisted up Sails, towed out their Ships, and such of them as were empty they hailed against the Enemy, whom when they approached they set them on fire, and with full Sails let them drive upon the *Roman* Navy, wherein being contained a multitude of Vessels it easily took hold. And spreading it self wide, a great terror, as in such cases, followed in the *Roman* Fleet, and a grievous cry, while the wind and flame made a terrible Noise, and the Soldiers and Mariners contended amongst themselves what should be done, and with their Poles endeavoured to keep off the flaming Vessels and thrust off their own without any reason or moderation.

His Fleet  
turns.

46. But the *Vandals* omitted not to attend them and plied them with their weapons. Some they drowned and if any fled they took them and their Arms as booty, yet in such a distress there wanted not some that were mindful of the ancient valour of the *Romans*, amongst whom *Fohn* was most Eminent the Lieutenant of *Basiliscus*, yet not concerned in his Treachery. When his Ship was now surrounded with Enemies, turning himself into all quarters of the Vessel, he laid about him and did them much mischief, and when he saw it was in vain, and that his Ship must be taken, from the Prow thereof he cast himself armed into the Sea, and when *Genzo* the Son of *Genferich* earnestly intreated him to spare his life, promising him safety, he would not do it but drowned himself saying only this, that *Fohn* should not be in the power of Dogs. This was the End of that War, and *Heraclius* returned home. *Marcellianus* miscarried by the treachery of one of his Officers. *Basiliscus* when he came to *Constantinople* took sanctuary in the Church of Christ, the great God, which the Inhabitants called *Sophia* or *Wisdom*, thinking that Name most worthy of God. And he escaped danger, through the Intercession of *Verina* the Emperess, but at this time he could not obtain to be Emperor, out of hope of which he had left nothing undone. For, *Leo* not long after killed *Alpar* and *Aradurinus* in the Palace, suspecting that they lay in wait for his life. Thus much *Procopius* from whom it appears that by procurement of *Alpar* this Treason happened, who being an Arian might bear good will to *Genferich*, a man of his own persuasion, upon that Account as well as hatred to *Leo*: As for the Fleet thus lost some write strange things indeed; as that it should consist of eleven hundred Ships: That when the Fleets were ready to joyn *Basiliscus* tacked about and fled, which the rest seeing him do followed his Ship: That after this Flight the Navy lying without care or watch was set on fire by the Enemy. And that the Fleet being lost the Land Army also miscarried, the Officers thereof, when they might have taken *Carthage*, being discouraged.

By procure-  
ment of *Alpar*.

47. Thus miscarried so great an Enterprize under the management of Heretics, while, as some observe, another War committed to that of an Orthodox General, did well succeed against *Deniscus* King of the *Huns* and Son of *Attila*, than whom he began to be more Fierce and Ambitious; if it were possible. His Army was defeated and he himself slain in Battle. His Head was put upon a Pole and carried in Triumph up and down *Constantinople* to the great Joy of the Citizens; which passage *Marcellinus* placeth under these Consuls, and if

Defeat the  
son of *Attila*  
defeated and  
this.

duly,

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duly, then, what is written by the *Gothick* Historian and lately mentioned concerning the Dissipation of the *Huns*, and the Diffention and Ruine of the Sons of *Attila*, is to be accounted of by way of Anticipation. *Leo* having thus his Hands full, and put to such a vast Expence, had reason to be careful of his Revenue that what was duly imposed should not be diminished, and to see that the Magistrates of the Title of *Speiabilis* should take especial care thereof, as *Pro-* Consuls, *Picars*, the Comes of the East and the *Præfectus Apylalis*, besides the ordinary Governors of Provinces and their Officials, with the *Curiales*, in that case of Diminution a Fine should be incurred of twenty Pounds of Gold. That he might not be defrauded by Purchasers, he published a large Constitution dated on the first of September, which declared that if either his own House or any other of whatsoever Dignity or Fortune, should get possession of Lands not belonging to the *Metropolis* or Mother of Villages, nor by way of Patronage, but by Purchase or any other lawful Title, and not acknowledge to the Commonwealth the Functions, owned and discharged by the former owners, such Possessions should be seized and assigned to the *Curia* of that City to which they belonged, that so provision might be made for the publick advantage out of the Tributary Functions.

Leo takes care  
of his Revenue.

48. In these that they called *Metropolis* he will not allow any stranger to obtain any Possessions, but if any of the Townsmen alienate their Lands, it shall be only to a fellow-Townsmen or Inhabitant of the same *Metropolis*, all Contracts made with Strangers being hereby declared null and void. Now a *Metropolis* was the same amongst Towns or Villages as a *Metropolis* amongst Cities, or the Mother of Villages, and as Cities were free from the *Capitio* so were the *Metropolis*, but not the other Villages. But whereas to defraud the Tributary Function, many were wont to betake themselves to the Patronage of Tribes, he further declares that after this Sanction all such Agreements made, either under pretence of Gift, Sale or Hire, shall be of no Validity; the *Tabelliones* that draw the Instruments of Conveyance shall forfeit their Estates, and the Villages that shall do it, shall be confiscated; such as receive them into such Patronage, if wealthy, shall forfeit an hundred Pounds of Gold, and if poor shall lose what Estates they have, with which loss they shall also be punished who give any aid or assistance to such Bargains. Nay this Rule he will have of Force from the time contained in a Constitution of *Martian*; or in the Decree of *Thrace* for thirty years from the second Consulship of *Valens* and that of *Sigisbaldus* in the Eastern; in that of *Egyptus* *Pontus* and *Asiat* twenty six years or from the Consulship of *Cyrus*. These three Laws made up one Constitution directed to *Nicostratus* the *Præfectus Prætorio*. His Brother in the *Præfecture* of *Asiat*, and something like in Name as well as Office, was this year *Callistratus*, to whom another Edit was sent directed bearing date this very day, whereby is declared that Fathers marrying second Wives, shall not lose their usufruct of what belongs to their Sons by the first, as descending to them from their Mothers.

Metropolis  
what and how  
free.Anthemius  
answers the  
Petition of *Julia*  
as to the mar-  
riage of her  
freed man.

49. *Anthemius* was busie this year in assisting the Design of *Leo* against *Genferich*, but he also employed his Quæstor in making Edicts. He was Petitioned by a certain Woman called *Julia*, in favour of a Marriage she had contracted with one who had been her Slave, but had been also made free for the eminency of his Manners, as the alleged. Now, *Constantine* had made a constitution against women marrying their Slaves, and this she was afraid would take hold of her. In this case he thought fit to be kind to *Julia* and others in her condition, and yet to provide against such marriages as brought Infamy and other great Inconveniences to women of free and oftentimes of noble Parentage. In honour of his second Consulship he declares all such marriages contracted by women with their *Liberti* or freed men to be good and valid till this present year. But severely prohibits them for the future, under pain of the marriages being utterly null and void, the parties undergoing loss of Estates and perpetual Deportation, besides that the Children born in such a State should be seized as Slaves by the Treasury. And as for the Conjunction of women with Slaves, as also of men with *Liberti* and the Slaves, he leaves them to the said Constitution of *Constantine* and the Law as it stood in force before his time. This is directed to *Superarius* on the nineteenth of February; who shortly after certified him that he had received from the Emperor *Leo* certain Laws to obtain his Confirmation in his World, as he words it. By an

L. l. 3. 4.  
De causis leg.  
gitationem ti-  
tulum Cod.  
Juli. lib. 10. tit.  
23. de Kpt.  
Juli.L. R. de Es-  
toribus tri-  
butum Cod.  
Juli. lib. 10. tit. 12.L. R. non licet  
habitantes  
metropolis, &c.  
Cod. Juli. lib.  
11. tit. 55.L. R. uno ad  
sum patrimonii  
aut, &c. Cod.  
Juli. lib. 11.  
tit. 55.L. ult. de heredi-  
tatis, &c.  
Cod. Juli. lib.  
10. tit. 60.Novi Anthemii  
Dat. 10. Kpt.  
Marte.Anthemii novell.  
2. circa regem  
denstratum  
viam.

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ply except he himself would come to them. *Leo* went and by indirect means got them out. He took them to his Table, and promised them to forget all Injuries, and other matters: but he gave orders to *Zeno* an Aulicarian whom he esteemed faithful to him, to cut off their Heads as they should come to make use of the Baths of the Palace. When they came, he first cut off the Head of *Aradaburinus*. At the sight *Apar* grieved, but cried out; That being old, and now gray-headed, he suffered as he had deserved, who had boasted in vain and would never obey his Admonition. For he had often told him that they should devour *Leo* before he could make a meal of them. Having said this, he also was slain. But his Son *Patritius* who was divorced from *Ariadna* the Emperors Daughter, was sent into Banishment, and the was given in Marriage to *Zeno* who had thus cut off the Conspirators. Thus much *Nicephorus*, from whom other Writers dissent as to *Patritius*, relating all the Sons of *Apar* to have been slain. If *Zeno* was the man and *Ariadna* was formerly contracted to *Patritius*, *Baronius* rightly inferreth that the marriage of him with *Ariadna* fell not out till this year, and that such as assigned it to a more early time, were mistaken.

35. For the Year CCCCLXXI *Leo Augustus* (who from the killing of *Apar* and his Sons got the Nick-name of *Macles*) took the Consular Title the fourth time, and had *Probianus* for his Colleague. He was now well at ease, being rid of his ambitious Competitors; but so was not his Brother *Anthemius* who fared the worse for his good Fortune. The two Emperors excepted, the greatest men in these times were of the *Arian* persuasion, and such were they who preferred them to their Sovereign Titles, for little more than Titles they really enjoyed while these *Arian* Ministers bore all the sway. *Ricimer* a *Goth* and one of that Opinion, was displeased at the death of his Friends and Countrymen at *Constantinople*, and being angry with *Leo* began to be dissatisfied with him whom he had recommended to the Western Empire, though his Father-in-law. And what could not he promise himself, who upon the account of his Religion and Original had two great Potentates his Friends, *viz.* *Euarius* King of the *Goths* in *Spain* and *Gall*, and *Geisrich* the *Vandal* the Terror both of East and West, two great Persecutors upon account of that Heresie? He offered several Affronts to *Anthemius*, who taking it in disdain to be so used, and knowing sufficiently his Insolence, would not receive them without expressing his Resentment, and those Coles of Dissention being blown by the familiar Friends of both, it arose to that height that the Plots and Designs of *Ricimer* being discovered, he was glad to provide for himself by flight, and got him to *Milan*. The Nobility of those parts were very much concerned at this Breach as apprehending new mischiefs into which *Italy* would be plunged, and used all the means they could to persuade him to reconcile himself to the Emperor, and recommended to him as a Person most fit to be sent on that Errand, *Epiphanius* Bishop of *Ticinum*, or *Pavia*, a Person of very great eminency for his sanctity and abilities. *Ricimer* willingly enough complied with their Desires, as the best means to conceal his farther designed Treachery; and *Epiphanius* was sent upon the Errand. *Anthemius* was not forward to entertain him under that Character, professing *Ricimer* was a man not to be trusted, because of his Ambition, and fickle and treacherous Humour. But its said the religious discourse of the Bishop joined with the reverence due to his Person overcame him, and he durst not deny that Peace, which he concluded in his own thoughts would not be lasting. However a Peace, or rather a counterfeit Reconciliation was made.

*Ricimer* broke out into Rebellion.

36. The next year that followed, or the CCCCLXXII of our Saviour had *Felix* Consul for the West, and *Marcian* for the East. *Ricimer* for some time continued a Correspondence with the Emperor, but nourishing still his restless and ambitious Thoughts, and presuming he should be able either by force or cunning to destroy him, at length he broke out into open Rebellion, and with a great Force of men went to *Rome*, and in order to a Siege incamped at the Bridge of *Anienis*. This procured no small disturbance in the City, the people, though harraled with Tumults and Dissentions, siding with each party as inclined. But of whatsoever party they were, they were all oppressed with Famine, the Siege being drawn out in length, and a Plague the usual Companion of both, raged amongst them. The only hope they had was in the *Goths* inhabiting *Gall* whom they long expected to relieve them. And they wanted not will to do it, for *Bilimer* was sent with a good Army to raise the Siege, but when he attempted it, *Ricimer* turned head, gave him Battel, defeated, and slew him near the Bridge

A. D.  
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A. D.  
471.  
*Leo A. & Probianus*  
Cons.

*Alla Epiphanius*  
apud Ricimer ad  
b. d.

A. D.  
472.  
*Felix & Marcianus*  
Cons.

*Felix Sigen*  
ad b. d.

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Breaks into  
Rome and mur-  
ders *Anthemius*.

*Olybrius* Em-  
peror for a  
while.

And *Olybrius*.

The *Ostrogoths*  
make incur-  
sions into both  
Western and  
Eastern Em-  
pire.

Places assigned  
them no inha-  
bit.

of *Adrian*. Upon this, more elevated and resolute he reinforced his Siege, and on the eleventh of *Fuly* broke into the City, which he treated as *Marich* and *Genferich* had done before him. No regard being had to *Anthemius*, either as Emperor or Father-in-Law he put him to death; and permitted his Soldiers to plunder the Citizens, sparing only the two Regions where he had his quarter. This being done he promoted *Olybrius*, who not long since was come from *Constantinople*, to be Emperor, and not long after, *Cassiodorus* faith forty days, being seized by a Disease, in great pains of his Body if not of his mind, he went to give an Account of his Actions in another world on the eighteenth of the same month, having domineered like another *Silicibus* from the death of *Valentinian*. Neither did his lately promoted Emperor long enjoy his Purple, for some day he followed after on the three and twentieth of *October*, though others refer his death to the following year, and with better reason, *Cassiodorus* saying that he died in the sixth month. There is little said of what he did the small time he had the Power, but that to be grateful to *Ricimer* he made *Gundibarius* his Nephew a Patrician in his place.

37. The year CCCCLXXIII had *Leo Augustus* Consul the fifth time and him alone, they that were most concerned in the West having something else to think of than of making Consuls. *Leo* having notice of the late Revolutions at *Rome* resented them as was convenient he should, especially the death of *Anthemius* and thinking whom he might send to succeed him in the West, made choice of *Felix* Consul. *Nepos* the Son of *Nepotianus*, to whom he married his Niece and designed him *Cesar*. But for all this, four months passed over and there was no face of Majesty, none that wore the Purple at *Rome*, and this encouraged *Gundibarius* to take up the trade of *Ricimer* his Grandfather. On the fifth of *March* he procured the Soldiers to nominate Emperor *Olybrius*, who bore the Office of *Comes Domesticorum*, and him they adorned with the Imperial Ensigns at *Revenant*. Thus after the death of *Anthemius* followed two, whom we may rather call Usurpers than Emperors; who had not any consent of *Leo*, nor were created after due manner, and therefore no account was had of them by those Princes that followed. Of such Tragedies as had been thus acted in *Italy*, *Genferich* the next Neighbour could not but be Spectator. And his Ambition excited him to make such use of them as his Interest with the *Arian* Princes of this time could procure. He not only did what mischief he could with his own Power in *Africa*; but he stirred up the *Ostrogoths* to invade both the Eastern and Western Empire, alluring them by the greatness of the Booty. And to the Booty at this time they had great appetite, if what their Countryman writes be true, that the prey *ferendus* de *vitis* *Geisrich* e. 56. likewise failed; for they had been maintained by War, and now peace became very irksome to them.

38. With open mouths they all betook themselves to *Theodimir* their King, and desired to be led out to what quarter soever he pleased. He sent for his Brother and casting lots persuaded him to invade *Italy* where *Glycerius* now Reigned, while he in the mean time should set with a stronger Army upon the stronger or Eastern Empire. The thing was done, *Widimir* invaded *Italy*; but presently after died and left *Widimir* his Son for his Successor. Him did *Glycerius* labour with gentle language to mollify, and by presents moved him to quit *Italy* and go into *Gall* where he told him his own kinsman then Reigned. He accepted of his Presents and went as he directed him into *Gall*, where he joyined with the *Vistigoths* his Kinsmen, and made up one Body and People with them, who had dominion both in that Country and in *Spain*. *Theodimir* the elder Brother with his Forces passed the River *Sava*, threatening to make War upon the *Sarmatians* and such others as should endeavour to oppose him, which none did concluding he would be too strong for them. Perceiving all thing to succeed as he wished, he set upon *Naissus* the first City of *Thyrrania*; and being Master of it joyined with his Son *Theodoric*, and by his Officers took in the City *Illyrians*, and several places of the Country before this thought to be inaccessible. For they subdued in the course of this War *Heraclea* and *Larissa* Cities of *Thessaly*, after having got much Booty. *Theodimir* taking notice both of his own and his Sons felicity, resolved to improve it, and from *Naissus* went to *Thessalonica* whether the Emperor had ordered *Clarissus* a Patrician with an Army. He perceiving the Trenches to be opened sent to *Theodimir*, and by gifts persuaded him to quit the City, and an Agreement was made whereby were delivered up to the *Goths* to inhabit *Ceropenia*, *Europa*;

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473.

A. D.  
473.  
*Leo A. & Nepos*  
Cons.

*ferendus* de  
*vitis* *Geisrich*  
e. 56.

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*Europa, Mediana, Patina, Bercum*, and another place called *Simm*, where with their King they placed themselves in quiet. And not long after *Theodemir* was seized with a mortal distemper, and calling to him the *Goths* in the City *Ceras*, nominated his Son *Theoderich* his Successor, and then died. This is that *Theoderich* of whom we are largely to write hereafter. We must add as to matters of the East this Year, that (according to the Computation of *Marcellinus* and *Cassiodorus*) *Leo* the Son of *Zeno* and *Ariadna* was born, and presently by his Grandfather the Emperor made *Augustus*. But as some write he scarcely lived ten Months after his Imperial Birth, then dying an Infant, and neither being sensible of what he got or lost. Yet others would have him not an Infant, but a Youth brought up in a vicious course of Life. Which could not be, for had he been born that very Year that his Father and Mother were married, he could not at this time have exceeded three years, according to what hath been formerly said, and *Baronius* also now observes.

Leo dies.

Good Laws made by him.

59. But the following Year, or the CCCCLXXIII of our Lord, was opened with the Consulship of this *Leo Junior*, and notable upon this account as well as for his own Death and that of his Grandfather, who now ended his Life after he had reigned seventeen years and six months. He is generally commended for his wisdom and moderation in Government, and reckoned amongst good Princes. Some blame him very much for this, that he was not sufficiently cautious whom he preferred, as *Basiliscus* and *Zeno*, both who proved great maintainers of the *Arian* Heresy, and procured disturbances in the Empire: neither did he take off *Basiliscus*, as with good reason he might have done after his Treachery, but suffered him to live and entertain farther ambitious designs for obtaining the sovereign Power. That silly opinion that the best Laws are made by the worst Princes, was confuted by him as well as others, for many excellent ones he enacted both of Ecclesiastical and Civil concernment. Some of both sorts we find without date, and cannot so well assign them to any particular Year. *Constantine* had formerly made it Capital to make any Eunuchs within the Roman Pale. But this Law became so neglected that *Leo* by a new Constitution directed to *Vivian* the P. P. forbade any such Castrated Persons to be sold, by subjecting every *Tabello* that drew the writings of such Sale to punishment, as also him that should require the eighth penny according to the Custom; for there were certain Publicans, who from gathering this eighth penny from the sale of Eunuchs, had the name of *Odiovarii*. But as for Eunuchs made in barbarous Nations without the Roman Pale, those he permits to be sold. Indeed the practice of this Age was so degenerate, as usually before Revolutions, that, as *Sidonius* *Apollinaris* jestingly and yet too near to Truth, wrote to his friend *Candidianus* concerning the Maritimes of *Padius* near *Revenna*, the course of all things seemed perverted, to fober men. The Walls, saith he, fall, and the Waters stand; Towers float, and Ships lye fast; the Sick walk, and Physicians lye along; the Baines freeze, and Houses burn: the living are dry, and the dead swim: Thieves are vigilant, and those in Power sleep: Clerks turn Usurers; *Syrians* sing: Marchants turn Soldiers, Soldiers traffique as Merchants: old men play at Ball, young men at Dice: Eunuchs follow Arms, and the Confederates their Books.

He forbade Soldiers traffick.

60. Though these Incongruities might chiefly be charged upon the People of the western Provinces who were now ripe for Ruine, yet as Corruptions will ever be creeping into all States and Empires, *Leo* took notice particularly of one of those Indecencies mentioned by *Sidonius*, and that was the trafficking of military Men. He was satisfied that as by a course of Trade they neglected their own Employment, and thereby subjected the Provinces unto Danger, so in their way of Traffick they oppressed too often their fellow Subjects, making use of their military Function to enforce it, by terrifying their Neighbours, and frighting them into unequal terms, by the awe of their Girdles. For these reasons he gave in Command to *Alar* when *Magister Militum*, that Soldiers should not as much as hire any thing that belonged to other persons, neither be Procurators or Managers; engage themselves for any, or employ others in those Affairs. He requires that they buy themselves with Arms, not with private matters, and that they constantly attend their Colours, and preserve the Commonwealth which maintains them from all necessity of Wars. By the many warnings he had from *Genferich* and others to strengthen himself against Invasions, he was so careful to have all things necessary for War, that in a publick

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468.A. D.  
474.  
Leo Junior  
is Conf.Vide, tit. 42.  
de Eunuchis  
Cod. Jus. lib. 4.

Lib. 1. c. 2.

L. 2. de lictis &  
reductis Cod.  
Jus. lib. 1. tit. 65.

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The too rich furniture of private Persons.

Edict he declared that no Persons of what Dignity soever, should be excused from building or repairing of Walls, from furnishing of Wheat and other Species as the *Præfatus Prætorio* should think convenient. He was negligent as to securing himself from *Basiliscus* and his ambitious Practices, but if we may judge from another Law, he was jealous that some of his Subjects coveted his place, and that from the Splendor of their Clothes and Furniture. As *Valens* (as he, and as any) had formerly forbidden to Subjects the use of Cloths wrought with Gold, he forbids the putting of Pearl, Emrods or Jacinth upon Bridles Saddles or Belts, permitting them to be adorned with other Gemms: But all sorts of Gemmes he forbids to be worn in Trappings; under pain of fifty pounds of Gold to be forfeited by him that shall transgress in either kind. He further declares that no private Person except in the ornament of Matrons or the wear of Rings either by men or women, shall make any thing of Gold or Gemmes which belongeth to the Clothing or Ornaments of the Emperor. Neither shall they do this under pretence that they make those things on purpose to present them to the Prince, for he declares that he desires no such Presents, neither that Royal Ornaments shall be presented by private Persons. As a reward for any such things to be presented to him, he establishes such an one as would little gratifie the Giver, viz. no less than a forfeiture of an hundred Pounds of Gold, and of life it self to the Bargain. For as much he saith that his Royal Ornaments ought to be made by his *Palatine* Artificers within his own Court, and not up and down in private Houses or Shops. Therefore he decrees with the greatest severity, that what is sacred and agreeable in his wearing and Ornament no private Person shall rashly dare to make, under pain of incurring the Mult now mentioned.

He favoured Nobility.

Was a great friend to Liberty.

Kind to those that served in his Service.

61. That he was careful to preserve a regard to Nobility and Dignities he shewed in that he commanded that, if any publick *Baker* (or one of the *Municipes*) should by ambitious practices, favour or money, obtain the Dignity and Office of *Comes Horreorum*, he should be deprived of his Dignity, fine in twenty pounds of Gold, and be returned to his former Employment, without any special Indulgence to be obtained. But to liberty he was a great friend, which to obtain he ordained an extraordinary and singular matter. Amongst the Presents lately mentioned and forbidden to be made to him, it seems that Eunuchs were not to be reckoned, but that sometimes such were presented to serve him in his Bed Chamber. As he or his Colleague *Anthemius* had privileged their Bed Chamber-men from being converted before any other Judge than the *Magister Officiorum*, he declared that all that were already admitted into his Chamber, whether given by the liberality of any person, or upon any other account, and to be admitted for the time to come, if *Slaves* should *ipso facto*, without intervention of Writings or Acts, obtain Liberty and Ingenuity; nay this should extend unto the dead, so far as they could be concerned. He gives this reason, that it was a seemly privilege of Imperial Majesty, not to be served by Slaves, but persons of free condition. He grants them therefore power to make Testaments as well as other men. But in case they die without lawful Heirs, he declares that their Estates shall come to his Treasury. This Immunity he gives in case any Persons do voluntarily present him with their Eunuchs. But if it be found that any thrust themselves into his Service, without the consent of their Lords, he allows the owners to recover them together with their *Peculium*. Provided they lay their claim within five years, which prescription of time shall bar them. And all this he extends to Women as well as men, which by their Lords were or should be given into his Bed Chamber.

62. He was as kind to those that served in his *Scrinia*, whom he declared free from forbid Employments, and Tolls according as the Law formerly had provided for them. Now these Tolls of vendible things rose and fell according to the pleasure of Princes; of old the twenty fifth or fifth part was taken of the price of Slaves, of other things the hundredth, which *Tiberius* reduced to the two hundred penny, and *Caligula* brought it down to the three hundred so far as the Provinces of *Italy* were concerned. More than this he declared

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L. ult. de quibus maribus, &amp;c. Cod. Jus. lib. 10. tit. 48.

L. an. nulli liceat in fidei, &amp;c. Cod. Jus. lib. 1. tit. 11.

L. an. de pign. lib. Cod. Jus. lib. 11. tit. 15.

L. 1. 3. 4. de Preceptis sacris lib. Cod. Jus. lib. 1. tit. 5.

L. 1. 2. 3. 4. de Præfatis sacris lib. Cod. Jus. lib. 1. tit. 19.

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them free from publick and civil Services, as also from the *Metatus*. And he thought fit to establish the Number of them; as in the *Scriniun Memoria* sixty two, in the *Scriniun Epistolatum* thirty four, and as many in the *Scriniun Libellorum*. In the *Scriniun Memoria* he would have no fewer maintained than four *Antiquaries*, as they were called, or Copiers of Books, and no *Memo-rials* to supply or execute two places. But he seems most concerned about military men, forbidding still by another Constitution directed to *Diogorun* that they undertake any civil Employment. And that the Army may not be filled with unskilful men, or the Cities and Towns emptied upon this occasion, he forbids any *Cursalis* or *Cohortalis* to betake himself to the *Armata Militia*. He was indulgent enough to his Servants and Ministers; but as other Princes before and after him he found occasion enough in his Reign to restrain their Extravagancies. One in his time was committed by the Governors of Provinces themselves, who though they had in the Cities of their jurisdiction Palaces, *Pratoria*, or publick Houses to dwell in, yet would get into those of private Persons, whereby two mischiefs followed. For the Owners might be outed of their Habitations or forced to unequal terms, and the publick Houses were neglected and fell to decay. To prevent which, he gave in a Constitution, exprets charge to the *Præfets* that such Governors should be constrained to inhabit the respective *Palaces* and *Pratoria*; and where, in the same City, there was both a *Palace* and a *Pratorium*, the former should be assigned to the Habitation of the *Præfets*, and the latter he employed as a *Granary* for receiving or keeping of Corn or other *Species*, or to some publick and necessary use. If any Governor act contrary to this Law, he and his Office shall forfeit fifty Pounds of Gold to repaire the *Palace* so neglected.

He commands that Governours dwell in the Palaces or *Pratoria*.

Zeno Emperor.

63. *Leo* at his death is reported to have left his young Grand-Son *Geo* his Heir and Successor, and *Zeno* only the Childs father, his Protector or Guardian. But *Zeno* when the old man was gone, and he had the power in his own Hands, would not be so put off. The Sovereign Power of an Emperor we know was very great; they were loosed from Laws that bound other Persons. They could adopt those that were elder than themselves. Such Acts of State as passed in their Minority their *Queffors* Hands, were as we have said, authentick, as now in our present Age, Laws enacted in the Minority of Princes from their authority receive their force, though managed by their Protectors or Regents of the Kingdom. By virtue of this fulness of power the Imperial Authority flowing from an Infant, but managed by *Zeno*, invested *Zeno* it seems, with the Imperial Dignity, and as if the Child had done his part, now he passed off the Stage, for he survived not long after. How long it was we know not, but we will have recourse to the Laws, and see what from the Dates of them can be Collected. Its only thus much, that he was alive, and his Father had the Title of *Augustus* on the two and twentieth day of *April* of this year. For in the Code there's a Constitution bearing both their Names, which declares that when any doubts arise concerning new Laws, which is not approved by old custom, in such case the Judge must suggest it to the Prince and receive his determination. It further appears that on the sixteenth of *March*, *Zeno* had the Imperial Title, by a Law of that Date inscribed to *Fustinian Præfets of Constantinople*, concerning the Privileges of the fifteen Advocates in his Court, that should enjoy the same with the Advocates of the *Fiscus*, and their Children, and which the sixty four in the Court of the *Præfets Prætorio* enjoyed. There are five other Laws extant which bear both their Names, but they generally tend to the establishment of the jurisdiction of the *Magister Officiorum* over those employed in the *Palace*, of which we have already spoken enough.

64. Not long after the Date of the former Law we may suppose the Infant *Leo* passed to the place of Innocents; but whether sent by the violent hand of his Father or no we cannot tell. Yet some, as *Paulus Diaconus*, reported it, and others tell another story, as if some other should be killed for him and he be sent away and educated privately, and should have lived till the time of *Fustinian Eusegius* tells us that *Zeno* after the death of *Leo*, having by the assistance of *Berina* the Empress obtained the Purple, and after that of his son the sole Title and

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the Empire being come, it had the fortune to die by degrees, not in the most sudden and violent manner. Being to fall, it was to fall from one step to another, and so to the ground, not from the highest pitch, but from a meaner place, that it might be with lesser noise and pain. *Ecdicius* stoutly defending, or, as others say, having yielded up the City of the *Avernus*, was sent for by *Nepos* and honoured with the Dignity of *Patritian*. Into his place and power in *Gall*, the Emperor thought fit to promote *Orestes*, whom he had advanced to the Dignity of *Magister Militum*, which he added to that of *Patritian*.

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Augustus Em-  
peror in the  
West.

67. This *Orestes*, its said, was a *Goth*, who by his military Actions had got reputation, and commanded the Auxiliaries of that Nation, in *Italy*. He being ordered for *Gall*, to give restraint to the ambitious Practices of *Eurich*, when he had his Army now ready at his Devotion, and considered what advantage he might take at the weak condition of *Nepos*, whom he could easily suppress if he pleased, gave way to his Appetite, and coming from *Rome* to *Ravenna*, where the Emperor lay, easily spoiled him of the Imperial Ensigns, which he refused to put upon his own Son, who by the Soldiers was admitted and owned for *Augustus*. And such he was before in Name, though out of prospect of the Thing his Father could scarcely be induced to give it him. He is generally called *Augustus*, but his true name was *Momilius Augustus*, as *Baronius* from an ancient Coin exemplified in his Annals shows, who takes it for granted that the People in a jeering manner called him *Augustulus*, being wont to give Nick-names as that of *Caligula*, and it might be the more readily received because *Augustus Augustus* did not so well found as *Augustulus Augustus* with some variation. *Orestes* having lustily provided for his Family, the better to establish it, sent and entered into a League with *Genferich*, the greatest Potentate of his Neighbours, and in *Gall* took such order as he thought convenient for stopping the progress of *Eurich* against the *Avernus*; but all to little purpose, as we shall perceive in the following year, when we have seen how in this present, *Zeno* behaved himself in the East.

68. However his practice might be irregular and suitable to that description of his Manners which *Evagrius* gives us; he took care that others should do their Duties, or be liable to Accusations and Punishment if they acted contrary. By the ancient Law called *Lex Julia Repetundarum*, All Judges *Military* and *Civil* were obliged to continue in the places of their Administration, fifty days after the laying down of their Employments, and of this we have seen something also since enacted by imperial Authority. But the present behaviour of Governors of Provinces gave fresh occasion to the reinforcing and enlarging former Acts of State, which *Zeno* did on the eleventh of October, by a Constitution directed to *Sebastian the Prefectus Prætorio*. It ordains that none of the *Clarissimi*, the *Præsides* of Provinces, *Consulares* or *Correctors*, or such as have obtained the Ensigns of greater Administration, that is to say the *Spætabiles*, as *Proconsuls*, the *Præsides Augustalis*, *Comes of the East*, *Picar* of any Tract, any *Dux*, or *Comes* of any Limit whatsoever, or *Comes* of the Divine Houses, after he hath a Successor shall dare to stir out of the places he governed, before the number of fifty days be completed. But during this space of time, the *Præsides*, *Consulares* and *Correctors* shall continue, in the *Metropolis*, and those of the Degree of *Spætabiles*, both Military and Civil in the more eminent Cities of the *Dioecses* governed, and that publicly, not lurking within doors, not in religious places or Regions, or Houses of great men, but conversing openly in the most frequented places in the Eyes of them whom they have governed, that free Liberty may be afforded to all men to accuse them of Thefts or other Crimes, so as being defended from all Injuries by their Successors, and at the peril of their Office, as also of the *Curiales* and *Defensors* of the Cities, giving only a juratory caution, they be forth-coming to answer according to Law, to any one that shall accuse them. Neither shall the Revocatory Letters of the Prince himself excuse any from staying these fifty days, nor a Commission for any other Government, nor the Precept of the Prefect, or of any other Power, Military or Civil, for discharging any other trust, that so all Craft may be prevented, and what

Zeno ordains  
that Governors  
stay in their  
Provinces some  
time after  
their admini-  
stration ex-  
pired.

Per qui admi-  
nistretur, sicut  
in infantes  
maritimus. De  
re publicæ et  
quod contrarius  
est labor vel o-  
pere, vel meritis  
adprebent, sicut  
liquid adprebent  
esse et obtinuisse  
impliciter, vide  
Notæ in Lib. 1.  
et omni Juris  
Civ. et Cod. Just.  
lib. 1. tit. 49.

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what the Emperor designs for the security of the Provinces, may take effect.

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69. He that shall violate this Law, shall incur a Fine of fifty Pounds of Gold, and also his Successor, who shall not stop and keep in his Province such an Offender, nor give speedy notice of his Flight. Now it is declared that none shall quit his Place or administration till his Successor be come to the Borders of the Province, And such Person as shall go away before the fifty days be expired, wherever he shall be discovered, though in *Constantinople*, by command of the Prefect without any delay, and by the care of the Governor of the Province wherein he shall be found, shall be conveyed back to continue six months for the discovery of his Faults. The Office of the Governor who neglects to stop him that will be gone (though with due respect) shall forfeit thirty Pounds of Gold. In case he be accused within fifty Days, and the Suit be begun, if there be not time remaining out of the fifty to end it, if he be only sued civilly, he shall have liberty to make his Proctor, and then he may depart; if Criminally, the Adversary inscribing his Name according to the custom of submitting to the *Lex Talionis*, he shall be forced to continue in the place till the matter be decided. Moreover all Judges before whom such Controversies shall be decided civilly or criminally, whether by right of their Administration, or by Precept from the Prefect, must know, that if they do not end them within the space of twenty days from their commencing, for their neglect they shall forfeit ten pounds of Gold. And their decisions and final terminations shall be good.

The remem-  
berable year.

70. At length we are arrived at the second Consulship of *Basiliscus*, and that of *Armatius*, at the year of our Lord CCCLXXVI, a year of great Revolutions. For great that must be indeed which put an end to the dominion of that City, which had so long exercised it over so great a part of the Earth, as was called the *Roman World*; which put an end to her Dominion, brought her into Subjection to *Barbarians*, and made her truckle, in stead of being the Head of an Empire among other Members of an *Italian Kingdom*. But so now it was. *Orestes* had already indeed brought the Dominion into a Barbarous Family; but still the Name of Empire continued; and as the name of his Emperor, by the Title, Jurisdiction, Authority, and all were owned to be *Roman*. But the Nobility that sided with *Nepos* were much dissatisfied, and they thought it a thing already as bad as could be, and if the Sovereignty must be placed in Barbarous Hands, then they would have a Man of their own choosing. At this time there was eminent in the Northern Parts, *Odoacer King of the Heruli, Thuringes and Scyri*, by original a *Regian*, or inhabitant of an Island planted in the *Baltick* with *Germani*, he, *Regis* as well as other Captains of the Barbarous Nations, had a mind to be trying his Fortune in *Italy*; and as he desired he, was chosen to this conduct by the Nations who rising out of *Pannonia* and those Coasts, desired nothing more than to invade that harassed Country. They had got a taste of the goodness thereof, in the Invasions of *Attila*, and now sufficiently understood in how pitiful a condition *Momilius Augustus*, that thing called an Emperor, was; how unable to withstand so great a shock as they were able to give him.

Odoacer King  
of the Heruli  
overcomes O-  
restes.

71. Yet *Orestes* was ready and met him on the Borders of *Italy* with a very good Force as he could judge, but when he came to compare the strength of the Enemy with his own, he found himself inferior in numbers, and well he might be, for the *Goths* forsook him, because as some report, he had not divided to them the third part of the Lands, as he had engaged. He thought it best to retreat to *Pavia*, and there he fortified himself, having more reason to trust to the strength of the Walls, than Fidelity of his Soldiers. *Odoacer* was not far behind, but pursued and resolved to attack the City. And within a few days he became master of it, and of *Orestes* in it. The City was permitted to be plundered by the Soldiers, who made cruel havock of all things and Persons, while to find out Treasure they omitted none of the cruel means, and it was in a manner reduced to Ashes with its two Churches, *Epiphanius* its Bishop being roughly handled, though he pre-  
vailed

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Basiliscus 2.

Armatius

Orestes



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is saluted King  
of Italy.

vailed for the Liberty of his Sister and other Women. This hapned on the three and twentieth of *August*, and *Odoacer* was by his men saluted King of *Italy*. Contented, yet proud with this Honour, he went to *Placentia*, and there put to death *Orestes*, which done there nothing remained but to suppress *Augustus* his Son. To effect this he proceeded to *Ravenna*, where though he missed of him, he took and killed his Uncle *Paul* the Brother of *Orestes*. Now he thought fit to take in the several Cities which seemed averse to his Interest. For this purpose he distributed his Forces which made sad desolations in several places, the Empire of *Rome* not being to fall without many other Cities buried in its Ruines, which *Mutina* to some really seems to have been; there being no mention of it, nor its neighbour *Regium*, afterwards made in the *Gothick* Wars. At length the Conqueror goes to *Rome*, the Inhabitants whereof went out to meet him, and received their Lord and Sovereign with Acclamations. *Momilius* almost dead for Fear, put off the Imperial Habit of his own accord, and was confined by *Odoacer* to *Lucullanum* a Castle in *Campania*, where we may imagine he quitted the Name as well as the Title of *Augustus*, for fear the Conqueror should find Treason in it as well as the other.

*Momilius* de-  
vests himself  
of the Purple.

*Zeno* driven  
from *Constanti-  
nople* by *Basiliscus*.

71. That Tempest of Violence and usurpation which raged at this time, and was so powerful as to overturn an Empire so firmly rooted, had also its effect in the East, and at *Constantinople*. For there *Basiliscus* who had been spared by *Leo*, could not brook *Zeno* should be preferred before him; but laid his Trains so artificially, that therewith *Zeno* circumvented was constrained to be gone, some say into *Isauria* his Country, others into *Italy*, and *Basiliscus* was by the Soldiers saluted Emperor, which Title having assumed, he conferred that of *Cesar* on his Son *Marcus*, and for about a Year and an half he prospered in his usurped Power. Thus new *Rome* seemed to sympathize with the old, and could not but fall sick, when she laboured under her mortal Distemper. And this happened the very same year, though at what time we cannot exactly tell. By the dates indeed of three Laws extant in *Fustinian's* Code, which have been by the Annotators assigned to this year, it must have been after the Month of February, toward the latter end of which one of them is said to have been made by *Zeno* yet in power. But some mistake is committed in the Date of them, and indeed *Basiliscus*, not *Basiliscus*, is said to be Consul: moreover another which bears his Name, and hath this year set to it, is said to be dated on the twenty eighth of December, which could not be, for he was forced into retirement before that time, and besides *Basiliscus* is noted as Consul. But thus was the whole Empire distressed and in disturbance; but that of the West quite failed, being cantonized and parcelled out into the Possession of Barbarians. Our *Britain*, as we have seen, was harassed by *English Saxons*, *Picts* and *Scots*, and quitted long since by the *Romans*. *Spain* was held by the *Goths*, *Suevi*, *Alans* and such like; *Africa* by *Genfrich* and his Vandalls; In *Pannonia* and several Provinces Eastward the *Huns*, *Goths* and other Barbarous Nations had nested themselves. *Gall* was lately held and divided by *Tetrarchies*; for besides that Pittance which remained to the Emperor, it was parted by the *Goths*, *Burgundians* and *Franks*. And now last of all *Italy* it self was inflamed to the *Herali*, and the Mistress of the World reduced to a Condition below that of Majesty.

The Empire in  
the West fails.

72. Thus we see the Inconstancy of all Sublunary things, the Vicissitude of human Affairs, and the vanity of all Mundane Greatness. *Rome* which had triumphed over all the World, now afforded herself matter for a Triumph, lost her Dominion and became subject to such Abject People, as formerly, though not of late, she had despised with the greatest Scorn. Behold another Face of things. She had run a madding after the new Fashions and Noveltyes of the *Barbarians*, and was now forced to receive them, not as Foreigne but Domestick; and the *Gown* in reality must give place to the *Pell*. She had been Captivated in mind before she was taken, and now was become enslaved to all purposes. So do Noveltyes longed after often bring a Surfeit, and the World being a Stage seems to affect, and to be afflicted with,

variety

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variety of things and Persons, as well as men. This Empire of old *Rome* as it began in *Augustus*, so it ended in one of the same Name, the like of which is to be observed of other Kingdoms. Now it remains that we first treat of the remaining part of the Empire, though still *Roman* in its Body, yet as headed by the New or Daughter *Rome*, viz. *Constantinople*. And then of the original of the several Nations which cantonized the Western Empire, and of their Kingdoms therein erected, in order, as these Kingdoms were contemporary with the *Constantinopolitan Roman* Empire.

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And of these, God willingly, shortly.

FINIS.



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## ERRATA.

Page 9, line 31. for Maximilian read Maximian. p. 11, l. 40. f. have r. had. p. 13, l. 14. f. fear r. fear.  
p. 16, l. 47. f. clean r. cleave. p. 18, l. 1. f. moral r. mortal. p. 18, l. 11. f. Parley r. Pelitory. p. 18, l. 41.  
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